



UNION OF SOUTH AFRICA.

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# CONSOLIDATED ORDINANCES

OF THE

# TRANSVAAL

(1902 TO 1943.)

And Supplement containing  
Ordinances 1944—1945.

By S. A. Lombard,  
Assistant Provincial Secretary.

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Price £1.

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PRINTED IN THE UNION OF SOUTH AFRICA BY THE GOVERNMENT PRINTER,  
PRETORIA  
1945

ERRATA.

- ~~(a)~~ On page iii - Hospital and Nurses Pensions - should read - "No. 13 of 1919".
- (b) On page 307 - add at the end of paragraph (b) of sub-section (1) of Section 3, the following proviso:-

"provided that the Administrator may at any time after the commencement of the Peri-Urban Areas Health Board Ordinance, 1943, in his discretion, abolish or disestablish any board functioning within the area under the jurisdiction of the Peri-Urban Areas Health Board, established by section two of that Ordinance".

- (c) On page 441 - add at the end of sub-section (4) of Section 124:-

"Whenever a health committee is disestablished or abolished and the area for which the health committee was constituted is immediately thereafter incorporated in the area of jurisdiction of the Peri-Urban Areas Health Board established by section two of the Peri-Urban Areas Health Board Ordinance, 1943, the provisions of this sub-section shall not apply but the assets and liabilities of such health committee shall be transferred to that board".

TJ/BC. 9.9.46.

Assistant Provincial Secretary.

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## PREFACE.

These volumes contain, in revised form, all the Ordinances passed by the Provincial Council of the Transvaal for the years 1911 to 1943. Wherever amendments have been brought about or new provisions introduced in an Ordinance, these have been incorporated in their proper places in the Principal Ordinances concerned, and in so far as the amending legislation itself is concerned, there is merely a reference to the purposes of the individual sections.

In addition to the legislation passed between the years 1911 and 1943, there are also embodied in these volumes, certain Ordinances and Acts passed before the date of Union, namely such legislation as affects matters which are now the function of the Provincial Council. Included therewith are the Commissions Powers Ordinance, 1902, and the Arbitration Ordinance, 1904. The volume also includes a supplement containing the 1944-1945 Ordinances.

The Education Act, 1907, with amendments has been omitted from this work. At the time of these volumes going to press, the Provincial Council had under consideration a Draft Ordinance to consolidate all the existing legislation on Educational matters. The need for conserving paper necessitates that any unnecessary matter should be excluded. There is, however, no doubt that as soon as the new Education Ordinance is promulgated, it will be available to the public in pamphlet form.

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No. 30 of 1902.]

[9th October, 1902.]

**ORDINANCE****Giving certain powers to the Commission appointed to enquire into the Johannesburg Insanitary Area Improvement Scheme.**

Whereas it is desirable that the Commission appointed under Government Notice No. 463 of 1902 should have powers conferred on it to compel the attendance of witnesses and the production of documents.

BE IT ENACTED by the Lieutenant-Governor of this Colony with the advice and consent of the Legislative Council thereof as follows:—

**Powers of Commission Appointed under Government Notice No. 463 of 1902 to Summon Witnesses &c.**

1. The Commission appointed under Government Notice No. 463 of 1902 to enquire into and report on the Johannesburg Insanitary Area Improvement Scheme shall have for the purposes of its enquiry the powers of the Supreme Court to summon witnesses; to call for the production of and grant inspection of books and documents; and to examine witnesses on oath such oath to be administered by the Chairman.

Summons for the attendance of witnesses or the production of documents may be in the form given in the Schedule to this Ordinance and shall be signed by the Chairman or Secretary to the Commission and served in the same manner and by the same officer as if it were a summons issued by the Resident Magistrate of the District in which the witness resides.

**Persons Summoned to give Evidence and Produce Documents bound to Obey Summons.**

2. All persons summoned to attend and give evidence before the said Commission or to produce books and other documents at any of its sittings shall be bound to obey the summons served on them; and any person refusing or omitting without sufficient cause to attend and give evidence or to produce books and documents in his possession or under his control mentioned or referred to in the summons served on him at any sitting of the said Commission when summoned to do so shall be liable to a penalty not exceeding fifty pounds to be recovered in the Court of Resident Magistrate for the District and in default of payment to imprisonment with or without hard labour for a period not exceeding three months; provided always that every person summoned to give evidence or produce books and documents shall be entitled to all the privileges to which a witness summoned to give evidence or produce books or documents before the Supreme Court is entitled.

**Penalty for False Evidence.**

3. Any witness who shall after being duly sworn wilfully give false evidence before the said Commission concerning the subject matter of enquiry shall be guilty of perjury and shall be liable to be prosecuted and punished accordingly.

**Penalty for Refusing to Answer Questions or for wilfully Insulting Commission.**

4. Every witness who shall attend before the said Commission and shall refuse to answer or to answer fully and satisfactorily to the best of his knowledge and belief all questions put to him by or with the concurrence of the Commission; and every person who shall at any sitting of the Commission wilfully insult any Commissioner or wilfully interrupt the proceedings at such sitting shall be liable to a penalty not exceeding fifty pounds to be recovered at the suit of the Public Prosecutor in the Court of the Resident Magistrate for the district.

**Provisions of this Ordinance may be Applied to any Commission Appointed by Lieutenant-Governor.**

5. The Lieutenant-Governor may by notice in the *Gazette* confer the powers jurisdiction and privileges under this Ordinance *mutatis mutandis* on any Commission appointed by him to make any public enquiry.

**Title.**

6. This Ordinance may be cited as the Commissions Powers Ordinance 1902.

**SCHEDULE.****SUMMONS TO WITNESSES.**

To A. B. (name of person summoned, and his calling and residence if known).

You are hereby summoned to appear before the Commission appointed by the Governor, under Government Notice No. 463 of 1902, to enquire into and report on the Johannesburg Insanitary Area Improvement Scheme, at \_\_\_\_\_ day of \_\_\_\_\_ 190\_\_\_\_ (place upon the \_\_\_\_\_ o'clock, and to give evidence respecting such enquiry (if the person summoned is to produce any documents add). And you are required to bring with you \_\_\_\_\_ (specify the books, plans and documents required.)

Given under the hand of the Chairman or Secretary of the Commission this \_\_\_\_\_ day of \_\_\_\_\_ 190\_\_\_\_

## ORDINANCE.

\* **Conferring Borrowing Powers on Johannesburg Municipality.***(Assented to 21st January, 1903.)*

WHEREAS it is expedient that the Municipality of Johannesburg be empowered to raise moneys by the issue of stock and otherwise for the purposes of the municipality;

Be it enacted by the Lieutenant-Governor of the Transvaal with the advice and consent of the Legislative Council thereof as follows:

## I. PRELIMINARY.

**Name of Stock.**

1. The stock issued in pursuance of this Ordinance shall be known collectively as the "Johannesburg Municipal Stock".

**Definitions.**

2. In this Ordinance unless the context otherwise by necessary implication requires—

"Municipality" means the municipality of Johannesburg as constituted for the time being;

"the council" means the council for the municipality of Johannesburg established under Proclamation No. 16 of 1901 and their successors in office;

"town clerk" means the town clerk of the municipality and includes any person for the time being acting in such capacity;

"town treasurer" means the treasurer of the municipality and includes any person for the time being acting in such capacity;

"registrar" means the person for the time being appointed by the council to have the care and management of the nominal register of inscribed stock hereinafter provided.

## II. ISSUE OF STOCK.

**Power to Issue Stock.**

3. The council may from time to time by the issue of stock subject to the provisions of this Ordinance raise moneys for the purposes of the municipality in such amounts as the Lieutenant-Governor shall authorize by writing under the hand of the Colonial Secretary.

**Stock to be Created to such Amount as will Produce actual Amount of Money Raisable.**

4. Every such power to raise money shall be construed to authorize the council to create such an amount of stock and from time to time to issue such nominal amounts thereof as will in the aggregate according to the price of issue produce the actual amount of money for the time being raisable under such power.

**Provisions as to Issue.**

5. In any such issue of stock the following provisions shall be observed that is to say—

(a) the stock shall be redeemable within a period fixed by the written authority aforesaid or in default thereof by the resolution of the council referred to in the next succeeding sub-section determining upon the issue of the stock but so that such period shall not in any case exceed the term of thirty† years from such issue,

(b) the resolution of the council determining upon the issue of any stock shall fix subject to the provisions of this Ordinance the rate of interest to be paid in respect of the stock so issued and shall include such subsidiary provisions as may be advisable for the convenient issue of the stock and the service of the same when issued. The provisions of such resolution (hereinafter called the "conditions of issue") shall not be subsequently varied;

(c) all such stock shall be entitled to the benefit of the charge and security hereinafter expressed and the interest and Redemption Funds hereinafter constituted and the provisions for enforcing payment hereinafter contained and no holder of stock shall have any priority or preference by reason of the date of issue of the stock held by him or on any other ground;

(d) the stock shall be issued at and for such a price in money as the council shall resolve and the council may from time to time by subsequent resolution alter or modify as regards any stock remaining unissued the price fixed by any previous resolution relating thereto;

\* The provisions of this Ordinance were applied to Pretoria Municipality by Ord. I (Priv.) 1906, section *four*; see Ord. No. 9 of 1903 conferring special borrowing powers for certain purposes by the issue of bills; Ord. No. 23, 1903; Ord. I (Priv.), 1904; Ord. IV (Priv.), 1904; and by sub-section (3) of section *fifty-two* of the Local Government Ordinance 1939 (No. 17 of 1939) the whole of this Ordinance with the exception of section *fifty-one* was applied to all town councils.

† As amended by section *one* of Ordinance No. 13 of 1943.



(e) the issue of any stock determined upon shall be in such amounts at such times and payable in such manner whether by instalment or otherwise and upon and subject to such reasonable conditions as the council shall from time to time by resolution determine and the certificates of stock shall be made out in such sums or amounts as shall be found expedient;

(f) the council may notwithstanding that the whole nominal amount of any particular issue of stock has not been issued resolve with the authority of the Lieutenant-Governor as hereinbefore provided to make a further issue of stock differing from such previous issue as to rate of interest or term or other incidents of redemption;

(g) the Council may at any time resolve not to proceed with the issue of any stock which has been authorised under any previous resolution but has not been issued whether the said stock be the whole or a part of the stock so remaining unissued;

(h) the Council may out of the proceeds of any stock pay the brokerage commission allowances or other costs or expenses of and incident to the issue of such stock.

#### **Varieties of Stock.**

6. The stock shall be issued as Inscribed Stock or as Stock to Bearer as may be prescribed in the conditions of issue or where there is no express provision in such conditions then in either form according as the applicant therefor shall before the actual issue request in writing. Any stock which has been issued in the one form in the absence of such express provision as aforesaid may be converted into the other form pursuant to the provisions hereinafter contained.

#### **In Default of Express Provision or Request Stock to be Inscribed.**

7. In default of such express provision as aforesaid or of such written request from the applicant the stock shall be issued as inscribed stock.

#### **Obligations to Pay Interest and Principal.**

8. The Council shall pay or cause to be paid the interest on the stock as and when such interest shall be due and the principal thereof at the time fixed for the payment thereof in accordance with the provisions of this Ordinance.

### **III. INSCRIBED STOCK.**

#### **Certificate of Inscribed Stock.**

9. The certificates for inscribed stock shall be in the form set forth in the Schedule hereto with such variations if any as circumstances may require.

#### **Register of Inscribed Stock.**

10. The Council shall cause a register (hereinafter called the "nominal register") of Inscribed Stock to be kept in one or more books and there shall be entered in such register the following particulars arranged under separate headings in respect of each separate issue of inscribed stock namely;

(a) the names and addresses of the owners for the time being of any amount thereof;

(b) a statement of the amount of such stock held by each owner and the date at which the name of any person was entered in the nominal register in respect of such stock.

#### **Register.**

11. The nominal register may be in duplicate and shall be kept either under the supervision of the Council at the Council's Office or by such bank as the Council shall from time to time entrust with the keeping of such register or jointly by the Council and by such bank.

#### **Effect of Register.**

12. Such nominal register shall be *prima facie* evidence of the title of any person in respect of stock of which he is entered as owner and of any other matters hereby directed or authorised to be inserted therein.

#### **Inspection.**

13. Any person may inspect the nominal register at any reasonable time upon payment of such fee not exceeding two shillings and sixpence as may be fixed by the Council and shall be entitled to obtain from the Town Treasurer or the Registrar copies or extracts of the register certified by him to be true copies or extracts upon payment of such fee as the Council shall fix not exceeding five shillings (three figures to count as one word) with the addition of sixpence for every fifty words thereof and any copy or extract so certified shall be admissible in evidence but without prejudice to the right of any person to disprove the correctness thereof.

#### **Issue of Stock Certificate.**

14. On demand in writing from a person entitled to inscribed stock paid up in full for which no certificate has been issued the Council shall make out and

give to such person free of charge a certificate or certificates thereof in form aforesaid in the name or names either of himself or of such other persons as he shall direct and such certificate or certificates shall be *prima facie* evidence of the title of the person named therein to the stock therein specified.

**Transfer of Inscribed Stock.**

15. Inscribed stock shall be transferable by the owner for the time being either by entry in the books of the Council or by a deed.

**Transfer in Book.**

16. The following provisions shall apply in the case of stock transferred by entry in the books of the Council—

(a) the registrar shall keep books (herein referred to as "inscribed Stock Transfer Books") wherein transfers of inscribed stock so transferred shall be entered;

(b) every such entry shall be conceived in proper words for the purpose of transfer and shall be signed by the person making the transfer or if absent by his agent thereunto lawfully authorised by writing under his hand;

(c) a fee not exceeding two shillings and sixpence shall be paid to the Registrar upon any such transfer;

(d) the Registrar shall enter in the nominal register of inscribed stock a memorial relating to the transfer containing the particulars specified in section *ten* herof;

(e) the Registrar shall on demand in writing by any person or party to a transfer or his legal representatives or other person thereunto lawfully authorised in writing under his hand give to such person a certificate signed by himself stating the date and other short particulars of such transfer for which certificate a fee not exceeding two shillings and sixpence shall be paid.

**Transfer by Deed.**

17. In the case of the transfer of any inscribed stock by deed the following provisions shall apply—

(a) the deed of transfer may be either: (1) an instrument repareate from the stock certificate or (2) a cession endorsed on the stock certificate;

(b) the deed shall in either case be in the form in this behalf set forth in the Schedule hereto with such variations if any as the circumstances may require and the deed shall relate only to the transfer and shall not contain any recital trust power or proviso whatever;

(c) when the deed is a separate instrument the same after due execution shall be delivered to and kept by the Registrar who shall enter in the nominal register of inscribed stock a memorial thereof containing the particulars specified in section *ten* hereof;

(d) when the deed is by way of cession endorsed on the stock certificate the person to whom such stock is ceded shall produce the stock certificate to the Registrar who shall thereupon pursuant to section *ten* hereof enter in the nominal register the name of such person as the owner of the inscribed stock comprised in such stock certificate and the other particulars specified in section *ten* hereof;

(e) in case of any such transfer as aforesaid the Council or the Registrar shall on demand and delivery up of the stock certificate transferred deliver a new stock certificate to the person entitled thereto. A fee of five shillings shall be paid on the registration of any such transfer;

(f) until any such transfer has been registered as aforesaid the Council shall not be affected by the same or any notice thereof or any claims or demands purporting to be by virtue thereof.

**Investigation as to Transfer.**

18. Before any transfer is entered in the register of inscribed stock the Council or the Registrar may if the circumstances appear to make it expedient require proof to its or his satisfaction of the title of any person claiming a right to make or receive or be entitled to a transfer.

**Closing the Registers.**

19. The Council may as regards the inscribed stock or any part thereof cause the nominal register of inscribed stock and the inscribed stock transfer books to be closed at such time or times as they may think fit but so that such books be not at any one time kept closed for more than fifteen days. Due notice shall be given of such intended closing by notice published in one or more newspapers circulating in Johannesburg and in any other place where such books may be kept at least fourteen days before the date of such closing. During the period for which such books are closed no transfer of inscribed stock shall be registered.

**IV. STOCK TO BEARER.**

**Form of Certificate.**

20. The certificates for stock to bearer shall be in the form set forth in the Schedule hereto with such variations as the circumstances may require.

**Issue of Certificate.**

21. On demand in writing from a person entitled to stock to bearer for which no certificate has been issued the Council shall make out and give to such person free of charge a certificate or certificates thereof in form aforesaid.

**Coupons.**

22. Annexed to each certificate of stock to bearer shall be coupons for the payment of the interest thereon covering such a period as the Council shall determine. At the end of that period fresh coupons may be issued for such further period as the Council shall determine and so on for successive periods. But the Council may in lieu of issuing fresh coupons in respect of any certificate of stock to bearer give in exchange a fresh certificate with coupons.

**Transfer of Bearer Stock and Coupons.**

23. Stock to bearer and coupons relating thereto shall respectively pass and the title thereto be transferred by delivery of the stock certificate or the coupons as the case may be.

**V. CHANGES OF FORM OF STOCK.****Change of Inscribed Stock to Bearer Stock and vice versa.**

24. Subject to the provisions in this behalf contained in section six of this Ordinance—

(a) any person registered as the owner of inscribed stock may on delivering up his stock certificate require the Council to issue to him a certificate or certificates of stock to bearer for and in respect of such inscribed stock and such certificate or certificates shall be made and issued accordingly;

(b) any person holding a certificate of stock to bearer may on delivering up such certificate with all unpaid coupons thereto belonging require the Council to issue to him a certificate or certificates of inscribed stock and such certificate or certificates shall be made and issued accordingly and such person shall be entered in the nominal register as the owner of such stock;

(c) any certificates and coupons delivered up as aforesaid shall be cancelled;

(d) all necessary entries shall be made in the proper books to keep a true record of the transactions;

(e) a fee not exceeding five shillings shall be paid for each new certificate so issued.

**VI. INTEREST ON STOCK.****Payment Interest on Inscribed Stock.**

25. The interest on inscribed stock shall be paid at such place or places as the Council may fix in the conditions of issue by cheque or banker's draft to be posted to the registered address for the time being of each registered owner of such stock.

**Payment through the Post.**

26. The posting by or on behalf of the Council of a letter containing a cheque or draft addressed to an owner of inscribed stock at his registered address shall as respects the liability of the Council or of any bank entrusted with the payment of such interest or any official thereof be equivalent to the delivery of the same to such owner himself.

**Joint Owners.**

27. Where more persons than one are registered as the joint owners of inscribed stock a cheque or draft as aforesaid in payment of the interest on such stock may be delivered or posted to any one of them and any one of them may give an effectual receipt for any interest due unless as to either matter notice to the contrary has been given in writing to the Council or the bank aforesaid.

**Investigation of Title.**

28. The Council or such bank as aforesaid before allowing the payment of any interest on any inscribed stock may if the circumstances of the case appear to make it expedient require evidence of the title of any person claiming such interest. And in such case the evidence shall be an affidavit of one or more competent persons or of such other nature as the Council or the bank aforesaid may require.

**Interest on Bearer Stock.**

29. With respect to interest on stock to bearer;

(a) each coupon shall state the amount of interest payable in respect thereof and the date of payment;

(b) payment to the bearer of a coupon of the amount expressed therein at or after the date named shall be a full discharge to the Council and shall exempt the Council, the bank aforesaid and any official thereof from all liability in respect of that coupon and the amount represented thereby;

(c) the provisions of the last preceding section shall apply *mutatis mutandis* with regard to coupons and the payment of the interest thereby represented.

## VII. SECURITY FOR STOCK.

**First Charge on the Municipal Rates and Revenue.**

30. All stock issued under this Ordinance and any interest due thereon shall be charged indifferently on the whole of the lands rents and property belonging to the municipality and on all rates levied by the Council under Proclamation No. 38 of 1902 or under any law for the time being empowering the Council to levy a general rate upon property subject to all charges existing on the taking effect of this Ordinance and shall be a first charge thereon after those charges.

## VIII. INTEREST AND REDEMPTION FUNDS.

**Creation of Interest and Redemption Funds.**

31. For payment of interest on the stock and for redemption and extinction of the stock there shall be created two funds hereinafter called the Interest Fund and the Redemption Fund respectively which shall be maintained applied and dealt with in manner hereinafter provided.

**Payments to Interest Funds and Redemption Fund.**

32. (1) There shall be paid and transferred to the Interest Fund in each year for the payment of interest on the stock a sum equal to the aggregate amount of all the interest payable in that year on the outstanding stock.

(2) There shall be paid and transferred to the Redemption Fund the sums specified below as and when they become payable or receivable that is to say;

(a) the net proceeds of any sales of fixed property belonging to the Municipality;

(b) all other incomings of the Council or the Municipality in respect of any sales of rights or interests in the nature of or analogous to fixed property easements or servitudes;

(c) the income of the investments of the Redemption Fund;

(d) the payments mentioned in section *fifty-five* hereof;

(e) any payments which may be required under the provisions of subsection (2) of section *thirty-six* of this Ordinance.

**Investment of Redemption Fund.**

33. The Redemption Fund so far as not immediately required for the purposes in the next section mentioned shall be invested as the Council may direct in one or more of the stocks funds and securities following namely;

(a) the stocks funds and securities from time to time styled in the Law of England "Trustee Securities";

(b) the stocks and securities issued or\* guaranteed by the Government of the Union or any other Dominion or any Colony or Dependency of the British Empire;

(c) the stocks, securities, debentures, mortgages, or debenture stock of any railway, tramway, dock harbour, waterworks, or electricity supply corporation, created by special legislative enactment within the British Empire, or of any other corporation within the British Empire, established under statute and approved of by the Administrator.

(d) the Municipal Fund or Town Debt of any town in South Africa constituted by or pursuant to any general or special statute ordinance or statutory enactment;

(e) Johannesburg Municipal Stock; provided that any stock so purchased shall not again be sold.

**Application of Redemption Fund.**

34. The Redemption Fund shall be applied from time to time in redemption of the stock according to the provisions of this Ordinance and may also be applied in the manner and subject to the conditions herein provided;

(1) where any power has been conferred on the Council under the provisions of sections *three* and *four* of this Ordinance to raise money by the issue of stock such power may be exercised either wholly or partially by using for this purpose any moneys for the time being standing to the credit of the Redemption Fund;

(2) in every case where the Council proposes to use the Redemption Fund for the above-mentioned purpose it shall first pass a resolution authorising the withdrawal of the moneys from the Redemption Fund in accordance with the conditions herein prescribed and specifying the account of the said fund from which the moneys are to be withdrawn and if they are to be withdrawn from more than one of such accounts the amount to be withdrawn from each such account;

(3) the amount to be withdrawn shall be equal to the sum which is to be raised by this means;

\* As added by section *one* of Ordinance No. 10 of 1940.

(4) immediately on the withdrawal of such moneys as aforesaid the same payments shall be made and the same procedure observed *mutatis mutandis* as if such amount had been raised by an issue of new stock bearing interest at the same rate as the stock represented by the account from which the said amount was withdrawn and repayable at the same date as such stock is repayable; provided that all sums payable as aforesaid by way of interest on the amount so withdrawn shall be paid into the Redemption Fund to the account from which such amount was withdrawn.

**Redemption Fund not to be Pledged.**

35. The Council shall not create or purport to create any lien or charge upon or against the Redemption Fund or any part thereof or any moneys applicable thereto whether expressed to be subsequent or subject to the sole charge herebefore expressed or otherwise.

**Accounts of Redemption Fund.**

\*36. (1) All proper books and accounts shall be kept and entries made to show from time to time the position of the Redemption Fund and in particular the investments thereof. Full and detailed accounts of the Redemption Fund and the investments thereof and of all payments and receipts in connection therewith during the year shall be published yearly with the general accounts of the Municipality in a form to be approved by the Colonial Secretary and a copy thereof shall be furnished to the Colonial Secretary.

(2) For the purpose of such accounts the Council shall each year cause a valuation to be made of the Redemption Fund and shall at the same time ascertain what would be the amount at the date of such valuation of a sinking fund constituted by equal annual payments in respect of each issue of stock sufficient if accumulated with compound interest at the rate of three and a half per centum per annum to redeem the whole outstanding stock of such issue at the expiration of the period fixed by the Council and approved by the Administrator; provided that such period shall not exceed thirty years. If it shall then appear that the value of the Redemption Fund is less than the amount of a sinking fund so constituted and accumulated as aforesaid, the Council shall cause a further payment to be made into the Redemption Fund so that the value thereof shall not be less than the said amount.

(3) All such books and accounts shall be audited by the Auditor-General of the Colony and for that purpose shall at all reasonable times be open for inspection by him or by any person authorised by him in writing thereto. The accounts referred to in sub-section (1) hereof shall not be passed by the Council in any year without a certificate from the said Auditor-General that he is satisfied both as to the correctness of the accounts and books and as to the maintenance of the Redemption Fund at the amount required by this Ordinance.

**Inspection of Books and Accounts.**

37. Any owner of stock or person authorized by him in writing may inspect the books and accounts of the Redemption Fund at any reasonable time upon payment of such fee not exceeding two shillings and sixpence as may be fixed by the Council and shall be entitled to obtain from the Town Treasurer copies or extracts of or from the said books and accounts certified by him to be true copies or extracts upon payment of such fee as the Council shall fix not exceeding five shillings with the addition of sixpence for every fifty words (three figures to count as one word).

**IX. REDEMPTION.**

**Purchase for Cancellation.**

38. The Council may at any time purchase the stock at such price as may be agreed upon. The purchase money may be paid out of any moneys other than the Redemption Fund which may be available for such purpose. The stock purchased shall be immediately cancelled.

**Redemption.**

39. Any stock not previously cancelled shall on the date fixed for redemption by the conditions of issue become payable at the nominal amount thereof and such amount shall together with any interest then due be paid to the owner of any inscribed stock or the bearer of any certificate of stock to bearer.

**X. ENFORCING PAYMENT OF STOCK.**

**Default of Payment of Interest.**

40. If at any time any interest due on any stock remain unpaid for three months after demand therefor in writing has been lodged with the Town Treasurer by the person entitled thereto or his duly authorized representatives proceedings to enforce payment may be instituted and proceeded with subject to the provisions contained in sections *forty-one*, *forty-two* and *forty-three* hereof.

\* Printed as amended by section *one* of Ordinance No. 7 of 1924 and section *two* of Ordinance No. 13 of 1943.

**Proceedings to Enforce Payment.**

41. The owner of any stock in respect whereof such default has been made may apply to any competent Court for the appointment of a receiver of the assets hereby charged with the payment of the principal and interest of the stock. On the hearing of such application, the Court may make such order and give such directions as under the circumstances shall seem expedient for raising and payment of the moneys due. In particular the Court may order and declare that a rate or rates of such amount or amounts as it shall fix be levied upon all rateable property within the Municipality. And such rate so ordered shall have the same incidence as any rate imposed by the Council and may be enforced in like manner and the proceeds thereof shall be paid into Court or otherwise as the Court shall direct.

**Further Proceedings.**

42. In the event of such default in payment of interest in whole or part being continued for a further period of three months the owner or owners aforesaid may apply to the Court for a declaration that the principal of all the stock for the time being outstanding has become due and the Court shall make such declaration accordingly with all such consequential orders and declarations unless satisfied that in the interests of owners of stock it would be advisable to otherwise deal with the application and in such case the Court may postpone the application and may ultimately make or refuse an order according to the circumstances.

**Default in Payment on Expiration of Period for Redemption.**

43. In case default shall be made in payment of the principal of any stock which has become repayable for one month then the like proceedings *mutatis mutandis* as specified in sections *forty-one* and *forty-two* may be instituted and proceeding with at the suit or on the application of any owner of stock. The court may also order a realisation of the Redemption Fund or a sale of any assets charged as aforesaid and may make such order as it shall think fit for the due carrying out of such sale or realisation and for the application of moneys raised thereby.

**Regard to Wishes of Stockholders.**

44. (1) In making or refusing any order as aforesaid the Court shall have regard to the wishes of the owners of stock as a whole and may order meetings to be held to ascertain such wishes and give all necessary directions as to such meetings and may direct any persons not parties to the proceedings to be made parties and to be served.

(2) An order made shall be deemed to be made on behalf of and shall inure to the benefit of all the owners of stock interested in or affected by such order.

**XI. SUBSIDIARY PROVISIONS.****No Trust or Notice of Interest Recognised.**

45. (1) The Registrar shall not enter in the nominal register or the inscribed stock transfer books or any other book or document or be otherwise affected by any notice of any alleged right interest trust power or claim of or by any person in respect of any stock other than a person entered in such books as owner of inscribed stock or lawfully entitled to be so entered in accordance with the provisions of this Ordinance.

\* (2) Nothing in sub-section (1) contained shall be deemed to prohibit the registrar from entering in the nominal register or the inscribed stock transfer books or any other book or document the name as owner of stock of any person in his capacity as executor or administrator of the estate of a deceased person or as trustee under any trust; provided that no obligation shall thereby be incurred by the Council in regard to the execution of any trust, express, implied or constructive in respect of any stock.

**Renewal of Certificates.**

46. If any stock certificate or coupon is worn out or damaged the owner on delivery up of the same and payment of a fee not exceeding five shillings may require the Council to cancel it and issue to him a similar certificate or coupon.

**Lost Certificates.**

47. If any stock certificate or coupon is lost or destroyed the owner on proof of the same to the satisfaction of the Council and on payment of a fee not exceeding five shillings together with all costs and expenses reasonably incurred by the Council and on giving indemnity to the satisfaction of the Council may require the Council to issue a similar certificate or coupon.

\* Printed as amended by Ordinance No. 5 of 1942.

**Proceedings to Rectify the Registers.**

48. If the name of any person is without sufficient cause entered in or omitted from the nominal register or the inscribed stock transfer books or if any incorrect or improper entry is made or if default is made or unnecessary delay takes place in making any entry in such nominal register or transfer books any person aggrieved may apply to the Court for an order that the nominal register or transfer books may be rectified. The Court may on such application make such order both with regard to the issue and as to costs as to it may seem fit.

**Proceedings in case of Non-compliance with Provisions of Ordinance.**

49. (1) If it shall at any time appear to the Colonial Secretary from the returns to be rendered as hereinbefore required or otherwise that the Council has failed to comply with the requirements of this Ordinance with regard to any payment application or investment in relation to the stock or Redemption Fund it shall be his duty to bring the matter to the notice of the Council and to request that the default may be made good within a time to be specified.

(2) If the Council shall fail to comply with such request it shall be competent for the Court on the application of the Colonial Secretary or of any ratepayer of the Municipality or of any owner of stock to make an order for the due enforcement of the provisions of this Ordinance. The Colonial Secretary shall be awarded the costs of any such application made by him.

**Meaning of Court.**

50. "The Court" in the two last preceding sections means as regards proceedings instituted in the Transvaal the Supreme Court of the Transvaal or the Witwatersrand High Court and the jurisdiction hereby given may be exercised in a summary manner in chambers.

**Power to Issue Bills.**

51. Instead of raising for any purposes by the creation and issue of stock money which they are authorized to raise under this Ordinance the Council may if they see fit raise for those purposes such money by means of bills subject to and in accordance with the following provisions;

(1) bills issued by the Council shall be called "Johannesburg Municipal Bills";

(2) a Johannesburg Municipal Bill shall be a bill in the form prescribed by regulations made in pursuance of this Ordinance for the payment of the sum named therein in the manner and at the date therein mentioned so that the date be not less than three or more than twelve months from the date of the bill;

(3) such bills may be offered for purchase by tender in such manner on such conditions and after public advertisement in such manner as the Council determine;

(4) the bills shall be issued under the authority of a warrant sealed by the Council;

(5) each bill shall be for the amount directed by the Council not being less than five hundred pounds;

(6) each bill shall be under the seal of the Council;

(7) a register of the bills issued and renewed by the Council shall be kept by the Town Treasurer or such other person as may be appointed by the Council and such register shall show the amount of each bill the principal money raised by such bill the statutory borrowing power in respect of which the bill is issued the date of issue the date when the same falls due and the date of payment thereof. Such register shall at all reasonable times be open to inspection without payment of any fee by any creditor of the Council;

(8) the Council shall not issue bills payable to bearer;

(9) the Council shall before issuing any bill under this Ordinance from time to time make regulations with respect to bills subject to and in accordance with this Ordinance and shall furnish to the Colonial Secretary and the Auditor-General a copy of any regulations so made. Such regulations shall provide;

(a) for regulating the preparation form mode of issue mode of payment and cancellation of bills;

(b) for regulating the issue of a new bill in lieu of one defaced lost or destroyed;

(c) for preventing by use of counterfoils or of a special description of paper or otherwise fraud in relation to bills;

(d) for the proper discharge to be given upon the payment of a bill;

(10) the Council may enter into such arrangements with any bank for carrying into effect the provisions of this Ordinance with respect to the issue of bills and to the payment of the principal sum named therein and

to all matters relating thereto and for the proper remuneration of such bank with reference thereto as they may think proper. Such remuneration shall be paid out of the general funds of the Council;

(11) the amount of money received by the Council in respect of a bill shall be deemed to be principal money raised by means of such bill and the difference between the amount payable in respect of a bill and the amount received in respect thereof shall be deemed to be interest on the principal money so raised;

(12) the Council shall provide from the same source and pay at the appropriate times into the Interest and Redemption Funds created under this Ordinance the same sums for payment of interest and repayment of the principal money so raised as they would have done in respect of the stock in the place of which such bills have been issued;

(13) the aggregate amount payable on bills current at any one time shall not exceed the sum of \*one hundred thousand pounds except by the amount payable on bills issued shortly before any other bills fall due in order to pay off those bills;

†provided that it shall be lawful and competent for the Town Council after giving fourteen days' notice by advertisement in a local newspaper of its intention so to do anything to the contrary in this or any other Ordinance notwithstanding to raise by means of bills such further sum or sums over and above the limit fixed by this or any other Ordinance as the Lieutenant-Governor may sanction.

(14) the Council may subject to the provisions of the preceding sub-section renew bills at maturity;

(15) money raised by the issue of bills shall be employed by the Council for the purposes of the several borrowing powers in respect of which the bills are respectively issued;

(16) for the repayment of the principal money raised by bills the Council may raise money by the creation of stock or issue of further bills but save as aforesaid the powers given to the Council to raise moneys by the creation of stock shall be suspended to the extent to which moneys have been raised by the issue of bills;

(17) a Johannesburg Municipal bill shall entitle the holder to payment at maturity of the sum expressed in such bill to be payable and shall be charged on all the revenues of the Council;

(18) the Town Clerk shall within twenty-one days after the thirtieth day of June in any year during which any bills have been issued paid off or are outstanding under this section transmit to the Colonial Secretary and Auditor-General a return in such form as the Colonial Secretary may prescribe and containing all such particulars as he may require in regard to the issue and payment of bills by the Council.

*Section 52.—Repealed by section one, Ordinance No. 9 of 1912.*

#### **Protection of Persons taking Stock in Good Faith.**

53. A person in good faith applying for any stock on the issue thereof or purchasing taking or holding stock once issued or advancing money in good faith to the Council for or on the security of stock issued or to be issued shall not be concerned to enquire or to take notice whether the creation or issue thereof was or was not authorised under the issuing or borrowing powers of the Council or otherwise in accordance with any Ordinance relating to such borrowing powers or whether or not the Council or any meeting thereof was properly constituted or convened or whether or not the proceedings at any meeting of the Council were legal and valid or regular or whether or not the conditions of issue were valid or have been duly observed or to see to any application of any moneys raised by the stock. A certificate of stock valid as to form once issued purporting to be by or on behalf of the Council to a person taking the same in good faith and for good consideration shall be legal and valid for all purposes in the hands of such person and anyone taking from or through him notwithstanding any defect informality or illegality in the creation or issue of any of the stock in respect of which such certificate is or purports to be issued or in the making or issue of such certificate or that the amount of stock authorised or resolved on has been or will be exceeded or that such certificate is a duplicate or repetition of any certificate previously issued.

#### **Transfer of Stock Free of Municipal Taxes.**

54. The stock shall be issued and be transferable free of any municipal rate or assessment; provided that nothing herein contained shall apply to the payment of fees prescribed by this Ordinance.

\* This sub-section was amended by Ordinance No. 23 of 1903 by the substitution of the words "five hundred thousand" for the words "one hundred thousand", but see section 4 (a) of Ordinance No. 1 (Private) of 1906 which, as amended by Act No. 32 of 1907, substitutes the words "three hundred thousand" for the words "one hundred thousand".

† Proviso added by Ordinance No. 1 (Private) of 1904.



**Unclaimed Interest.**

55. If at any time any interest is not claimed at the time for payment thereof and remains unclaimed for a period of two years thereafter the amount thereof shall be paid into the Redemption Fund without prejudice to the right of any person at any time thereafter to establish his claim to such interest which shall thereupon be paid to him less any costs and expenses of the Council incident to the proof of such claim but without any interest in respect of the period during which any such sum has remained unpaid.

**Unclaimed Stock.**

56. (1) If at the end of the period within which any stock is required to be redeemed according to the provisions of this Ordinance the Council shall not be able to redeem any such stock by reason of the owner thereof being unknown or not being forthcoming the Council shall invest in any securities in which the Redemption Fund may be invested a sum equal to the nominal value of such stock and thereupon such stock shall be taken to have been redeemed for the purposes of this Ordinance.

(2) Any sums invested as aforesaid shall unless used to satisfy any legal claim in respect of the stock represented thereby be kept invested as aforesaid for a period of ten years after which time it shall be transferred by the Council to the Colonial Treasurer to be dealt with according to law.

**Evidence.**

57. In case of any action or other proceeding, civil or criminal relating to stock or coupons or the rights or interests of persons alleging claims thereto or alleged offences in respect of stock or coupons copies of entries in or extracts from the nominal register or the Inscribed Stock Transfer Books or any book or document of the Council the Registrar or any bank referred to in sections *eleven* or *twenty-six* hereof duly certified as correct by the Town Clerk the Town Treasurer or Registrar inwriting under his hand shall be admissible in evidence but the Court before whom such action or proceeding is pending may for good cause order the production of the original of any of the books or documents aforesaid.

**Title.**

58. This Ordinance may be cited for all purposes as the Johannesburg Municipality Borrowing Powers Ordinance, 1903.

**SCHEDULE.**

A.—FORM OF INSCRIBED STOCK CERTIFICATE.  
JOHANNESBURG MUNICIPALITY.

No. .... £ .....

This is to certify that ..... is the proprietor of ..... pounds of Johannesburg Municipal Stock subject to Ordinance No. .... of 1903 relating thereto and to the conditions of issue.

Signed on behalf and by authority of the Johannesburg Town Council at ..... this ..... day of ..... 19.....

B.—FORM OF BEARER STOCK CERTIFICATE.  
JOHANNESBURG MUNICIPALITY.

No. .... £ .....

This is to certify that the Bearer of this Certificate is entitled to ..... pounds of Johannesburg Municipal Stock with interest thereon at the rate of ..... per cent. per annum subject to Ordinance No. .... of 1903 relating thereto and to the conditions of issue.

The Coupons attached to this Certificate are payable at .....

When the Coupons are exhausted this Certificate will be exchanged on presentation at ..... for a new Certificate with fresh Coupons attached.

Signed on behalf and by authority of the Johannesburg Town Council at ..... this ..... day of ..... 19.....

C.—DEED OF TRANSFER.  
JOHANNESBURG MUNICIPAL STOCK.

I ..... for consideration received do hereby transfer unto ..... of ..... the sum of ..... pounds Johannesburg Municipal Stock part of the Stock standing in my name in the Books of the Johannesburg Municipality subject to the several conditions on which I hold the same at the execution hereof.

Signed at ..... this ..... day of ..... 19.....

WITNESS :

D.—CESSION BY ENDORSEMENT ON CERTIFICATE.

I hereby transfer the within Stock unto ..... subject to the several conditions on which I hold the same at the execution hereof.

Signed at ..... this ..... day of ..... 19.....

Witness :

**ORDINANCE****To Confer Power to Expropriate Land on Municipalities.**

WHEREAS it is desirable to confer powers on Municipalities in respect to the expropriation and acquisition of land and other immovable property for Municipal purposes and to the execution and carrying out of sewerage and drainage works;

Be it enacted by the Lieutenant-Governor of the Transvaal with the advice and consent of the Legislative Council thereof as follows:—

**Title.**

1. This Ordinance shall be cited for all purposes as the Municipalities Powers of Expropriation Ordinance, 1903.

**Definitions.**

2. In this Ordinance unless the context otherwise requires;

“The Council” means the Council for a Municipality established under any law;

“Land” means and includes;

(a) land with or without buildings thereon;

(b) land or the usufruct thereof;

(c) all land held under any tenure or under lease or stand or claim license;

(d) any servitude over land.

**Service of Notice.**

3. Where any notice is required by this Ordinance to be served on or given to any person it shall either be served personally on such person or left at his last usual place of abode and in case any such person shall be absent from this Colony any such notice shall be served on any agent of such person whose name and address are registered at the Offices of the Town Council and shall also be left with the occupier of any land in respect of which such notice is given or if there be no occupier shall be published in the *Gazette* and left with the Registrar of Deeds.

**Matters Dealt with by Ordinance.**

4. This Ordinance is divided into two parts relating to the following subject matters:—

Part I.—The Expropriation and Acquisition of Land.

Part II.—Sewerage and Drainage Works.

**PART I.****THE EXPROPRIATION AND ACQUISITION OF LAND.****Expropriation of Land for Certain Purposes.**

5. The Council may subject to the provisions of this Ordinance for the purpose of or in connection with the construction improvement or alteration of any street square open space park recreation ground sewer drain sewerage works sewage farms drainage works culvert bridge or any other works which the Council is now or may hereafter be empowered to carry out purchase or acquire by compulsory purchase any lands whether situate within or without the limits of the Municipality.

**Conditions before Council can Expropriate.**

6. The following provisions shall prevail with respect to the exercise of the power to purchase lands compulsorily under the last preceding section of this Ordinance:—

(i) The Council, before putting such power in force, shall;

(a) pass a resolution by a majority of councillors at the time in office at a meeting of the Council held not less than fourteen days after notice shall have been given to the Council at a meeting thereof of an intention to move for such compulsory purchase;

(b) publish once at least in each of three consecutive weeks in two or more newspapers circulating in the Municipality an advertisement describing shortly the nature of the undertaking in respect of which the lands are proposed to be taken naming a place where a plan of the proposed undertaking may be seen at all reasonable hours and stating the quantity of lands that they require;

(c) serve on every owner or reputed owner lessee or reputed lessee and occupier of such lands a notice defining in each case the particular lands intended to be taken.

(ii) If any person interested as owner lessee or occupier of any land proposed to be taken by the Council objects to the compulsory purchase thereof and serves notice in writing of such objection on the Council at any time

within one month of the service of notice on him as provided in the preceding sub-section the Council shall not be entitled to exercise their compulsory power of purchase without the sanction of the Lieutenant-Governor unless such objection be withdrawn.

(iii) The Lieutenant-Governor may on the application of the Council and on due proof of the proper advertisements having been published and notices served appoint some person or persons to make an inquiry on the spot into the propriety of the proposed undertaking and the acquisition of the lands proposed to be taken therefor and the objection thereto and to report to the Lieutenant-Governor on the matters in respect of which such enquiry was directed and on receiving such report the Lieutenant-Governor may make an order empowering the Council to put in force with reference to the lands proposed to be taken or any of them the powers conferred by section *five* of this Ordinance and either absolutely or with such conditions and modifications as he may think fit.

**Notices to Treat may be Served by Council.**

7. If after the expiration of the period of one month within which notices of objection may be served no such notices of objection are served on the Council or forthwith after the making of the order of Lieutenant-Governor referred to in the preceding section as the case may be the Council may at any time within three months after such expiration or the date of such order as aforesaid serve a notice on every owner or holder of any interest in the land proposed to be acquired demanding a statement in writing specifying the nature and extent of his ownership or of any interest held by him and under what title the same is held, and of the claim made by him in respect thereof and every such notice shall state that the Council is willing to treat for the purchase thereof and as to the compensation to be made for the damage that may be sustained by him by reason of such purchase or the carrying out of the purposes for which the land is required.

**In the Absence of Agreement the Amount of Compensation to be Settled by Arbitration.**

8. If for one month after the service of such notice any such owner or holder as aforesaid shall have failed to state the particulars of his claim in respect of any such land or to treat with the Council in respect thereof or if such owner or holder as aforesaid shall not agree as to the amount of compensation to be paid for the interest in such land belonging to him or which he is by this Ordinance enabled to sell or for any damage sustained by him by reason of the carrying out of the purposes for which such land is required then the amount of such compensation shall be settled by arbitration as hereinafter set forth; provided however that nothing herein contained shall prevent an agreement as to the amount to be paid being made between the parties either prior to or after the commencement of arbitration proceedings nor shall anything herein contained prevent the payment by the Council at any time if it shall so think fit of the amount of any mortgage bond or other preferent charge upon the property in respect of which any claim shall be made whether the amount of compensation payable in respect of such property shall have been settled or not; but if any such mortgage bond or other preferent charge shall be so paid in advance by the Council it shall be considered as a payment on account of the amount of compensation payable in respect of such property.

**How Compensation to be Settled by Arbitration.**

9. All questions as to disputed compensation by this Ordinance required to be settled by arbitration shall subject to the provisions of this Ordinance be settled in manner and form provided by The Expropriation of Land and Arbitration Clauses Proclamation 1902 in the same manner as if the Council were substituted for the Governor as one of the parties to such arbitration and as if the name of the Town Clerk of the Council were substituted therein for the Secretary to the Department of Public Works.

**Each Party may Appear by Counsel.**

10. Upon all proceedings before any arbitrator or arbitrators or umpire as the case may be each party may appear in person or by counsel or solicitors or admitted and licensed law agents and may produce such witnesses and documentary evidence as the arbitrator or arbitrators or umpire as the case may be shall allow.

**Costs of Arbitration.**

11. The cost of and incidental to any reference to arbitration shall be borne by the Council unless the arbitrator or arbitrators shall award the same or a less sum than shall have been offered by the Council as provided in section *seven* of this Ordinance in which case each party shall bear his own costs incident to the arbitration and the costs of the arbitrators shall be borne by the parties in equal proportions.

**Basis on which Compensation is to be Assessed.**

12. With respect to the compensation payable by the Council for or in respect of any land required by them or for any right injuriously affected by the exercise of the powers conferred under the provisions of this Ordinance the following provisions shall prevail:—

(a) no enhanced or improved value which may accrue to any such property or rights by reason of the carrying out of the said purposes shall be taken into account in assessing such compensation;

(b) no addition to or improvements of any such property made after the date of the service of the notice mentioned in sub-section (1) (c) of section six (except such addition or improvement as was necessary for the maintenance of the property in a proper state of repair or was undertaken in pursuance of obligations entered into previous to such notice) shall be taken into account and in the case of any interest acquired after the said date no separate estimate of the value thereof shall be made so as to increase the amount of compensation to be paid for such property or rights;

(c) interest shall be payable at such rate and from such date as the arbitrators may determine on so much of the compensation payable by the Council as shall remain unpaid until such amount shall be paid.

**Persons under Disability may Transfer.**

13. It shall be lawful for all corporations fiduciary heirs or fidei-commissary heirs women married without community of goods guardians curators or trustees under marriage settlements or holding lands for native purposes and all other trustees executors and administrators and all persons entitled to a life interest in any lands whether subject to a lease or not to sell transfer and convey the same and all their right title interest claim and demand therein to the Council and to enter into all necessary agreements for that purpose.

**Courts may Appoint Persons to Represent Persons Interested.**

14. It shall be lawful for the Supreme Court or the Witwatersrand High Court in matters within its jurisdiction on application thereto by the Council to appoint any person or persons to represent and act for the purposes of this Ordinance on behalf of any owner or holder of any rights in land or buildings required to be taken as aforesaid who may be absent from this Colony or may be under any disability to act for himself or who cannot after reasonable enquiry be found and in the event of such appointment being made such person or persons so appointed shall be authorised and empowered to act for all the purposes of this Ordinance for and on behalf of every such owner or holder on whose behalf he or they shall have been so appointed.

**In case of Disputes as to Persons Entitled Money may be Paid to Master of the Supreme Court.**

15. In case of any dispute as to who is entitled to receive any money to be paid under this Ordinance or in case of any money payable to any person who cannot be found or in case of any interdict with respect to such money it shall be lawful for the Council to pay such money to the Master of the Supreme Court to hold the same in trust for the person or persons entitled thereto and thereupon all liability of the Council in respect of such payment shall come to an end.

**Entry upon Land.**

16. It shall be lawful for the Council after the expiration of the period of one month mentioned in section eight to enter upon take possession of and use any such land before proceedings have been taken to settle the amount of compensation to be paid for it leaving all questions as to such compensation to be settled afterwards in manner provided by this Ordinance.

**Land Subject to Mortgage.**

17. In every case in which any land is subject to a mortgage and the Council requires only a portion of the said land the mortgagee of such land may consent that the portion of land so required by the Council be transferred to them released from such mortgage and the consent to the transfer and release of such portion of any lands so mortgaged shall in no way affect the rights of the mortgagee to the remainder of the land and the mortgage bond shall remain and be in full force and effect for the sum due thereon and interest as to the remainder of the lands as if no consent to transfer had been given.

**Agreement between Mortgagee and Council.**

18. In any case in which any land is subject to a mortgage and the Council requires only a portion of the said land and the mortgagee of such land does not consent to the transfer thereof released from such mortgage and if the portion so required be of less value than the amount of the mortgage bond with interest thereon and the mortgagee shall not consider the remaining part of such land a sufficient security for the payment of the said bond the mortgagee

may insist and demand that the value of and compensation to be given for that portion of the land so required by the Council may be settled by agreement between him and the Council and if the parties aforesaid disagree respecting the amount of such value or compensation the same shall be determined as in all other cases of disputed compensation and the amount of such value or compensation being so agreed upon or determined shall be paid by the Council to the mortgagee in satisfaction of his mortgage debt in so far as the same may extend and a memorandum of what shall have been so paid shall be written or endorsed on the mortgage bond and upon the official copy thereof filed of record in the Deeds or other Registration Office.

**Compensation when all Land Included in Mortgage is taken.**

19. In any case in which all land comprised in and affected by a mortgage bond is required to be taken by the Council, then the amount of compensation required to be paid by the Council for the taking of such land shall be applied as far as the same is required towards the payment of the mortgage debt and all interest due thereon and the balance of such compensation money shall be paid over to the owner of the land and in any case where the amount of the compensation offered by the Council to be paid for such land is not equal to the amount due on such mortgage bond then the mortgagee shall for the purposes of determining the same as in all other cases of disputed compensation be considered as the owner and all the powers by this Ordinance given to owners in cases of disputed compensation are hereby conferred on the mortgagee; provided that where the compensation when so agreed upon or determined exceeds the amount due on the mortgage bond then the mortgagee must pay over the surplus to the owner; provided further that it may be lawful for the owner at any time before the compensation is agreed upon or determined to redeem the mortgage bond and then the same proceedings shall be had as in all other cases of disputed compensation.

**Land Comprised in Lease and Apportionment of Rent.**

20. If any land shall be comprised in a lease for a term of years unexpired part only of which land shall be required by the Council under this Ordinance the rent payable in respect of the lands comprised shall be apportioned between the lands so required and the residue of such lands and such apportionment may be settled by agreement between the lessor and lessee of such lands on the one part and the Council on the other part and if such apportionment be not settled by agreement between the parties such apportionment shall be settled by the Resident Magistrate of the district in which such lands are situate and after such apportionment the lessee of such lands shall as to all future accruing rent be liable to only so much of the rent as shall be so apportioned in respect of the lands not required as aforesaid and as to the lands not so required and as against the lessee the lessor shall have all the same rights and remedies for the recovery of such portion of rent as previously to such apportionment he had for the recovery of the whole rent reserved by such lease and all the covenants conditions and agreements of such lease except as to the amount of rent to be paid shall remain in force with regard to that part of the land which shall not be required as aforesaid in the same manner as they would have done in case such part only of the land had been included in the lease.

**Compensation for Damage through Severance.**

21. Every such lessee as last aforesaid shall be entitled to receive from the Council compensation for the damage done to him in his tenancy by reason of the severance of the lands required from those not required or otherwise by reason of the execution of the works for which such land is required.

**Land held on Tenancy from Year to Year.**

22. If any land shall be in the possession of any person having no greater interest therein than as tenant for a year or from year to year and if such person be required to give up possession of any land so occupied by him before the expiration of his term or interest therein he shall be entitled to compensation for the value of the unexpired term or interest in such land and for any just allowance which ought to be made to him by an incoming tenant and for any loss or injury he may sustain or if part only of such land be required compensation for the damage done to him in his tenancy by severing the land held by him or otherwise injuriously affecting the same and the amount of such compensation shall be determined by the Resident Magistrate having jurisdiction in case the parties differ about the same.

**Evidence of Lease to be Furnished to Council.**

23. If any party having a greater interest than a tenant at will claim compensation in respect of any unexpired term or interest under any lease or grant of such land the Council may require such party to produce the lease

or grant in respect of which such claim shall be made or the best evidence thereof in his power and if after demand made in writing by the Council such lease or grant or such best evidence thereof be not produced within twenty-one days the party so claiming compensation shall be considered a tenant holding only from month to month and be entitled to compensation accordingly.

*Sections 24 to 31.—Repealed by Ordinance No. 9 of 1912.*

No. 14 of 1904.]

[Assented to 11th February, 1904.]

## ORDINANCE

**To Regulate the Ownership of Town Lands.**

WHEREAS it is expedient to make provision as to the ownership of Town Lands;

Be it enacted by the Lieutenant-Governor of the Transvaal with the advice and consent of the Legislative Council thereof as follows:—

**Repeal of Laws.**

1. Volksraad Resolution Article 140 dated 13th October 1868 Law No. 17 of 1898 section *forty-five* and sections *one* and *two* of Regulations for Towns in the South African Republic published in the *Staats Courant* of 25th October 1899 page 1673 and so much of any other law as may be repugnant to or inconsistent with the provisions of this Ordinance shall in so far as they apply to Town Lands within the limits of any Local Authority be and are hereby repealed.

**Interpretation of Terms.**

2. In this Ordinance unless there is something repugnant in the subject or context;

“Town Lands” means the lands referred to in the laws mentioned in the preceding section as “public town lands of towns” or as “common village or town land” and vested by the said laws in the state;

“Local Authority” means the Council of any Municipality or Urban District Board as the case may be.

**Lieutenant-Governor may Reserve Portions of Town Lands for Public Purposes.**

3. The Lieutenant-Governor may in consultation with the Local Authority reserve out of the Town Lands of any Town such portions thereof as may be required for public purposes; provided that if any Local Authority shall be dissatisfied with the portion or portions so reserved it may appeal by petition to the Legislative Council whose decision on such petition shall be final; and provided further that when any such portion shall for a period of ten years remain unused for public purposes the same shall vest in and become the property of the Local Authority in the same manner as the lands referred to in the next succeeding section.

**Remainder of Town Lands to be Transferred to Local Authority. Provisions in respect of Public Diggings Proclaimed on Town Lands.**

4. (1) All the Town Lands except such as shall have been reserved under the provisions of the last preceding section shall be granted or transferred to and vested in the Local Authority of such town in full ownership without any reservation in the grant thereof of minerals and precious stones in favour of the Crown; provided always that on the proclamation of any public digging under Law No. 15 of 1898 or any amendment thereof or of a mine under the Precious Stones Ordinance 1903 on the land so granted the Local Authority shall be entitled to all the rights of an owner of private land on which a public digging or mine is proclaimed under the said Law or Ordinance; and provided further that the revenues and profits received by such Local Authority arising out of such rights as aforesaid shall be applied to the purposes mentioned in section *six* of this Ordinance; provided that where any Local Authority is indebted to the Government such grant or transfer shall not take place until such Local Authority shall give satisfactory security for the repayment of the debt.

(2) In case any portion of any Town Lands was proclaimed a public digging prior to the taking effect of this Ordinance the Local Authority shall be entitled to one-half the license moneys in respect of all claims and stands on such digging paid to the Colonial Treasurer from and after the taking effect of this Ordinance.

The license moneys payable on any claims pegged out on such public digging after the land on which such claims are situated is granted to the Local Authority shall be at the same rate as license moneys on claims situated on proclaimed private land.

*Sections 5 and 6.—Repealed by section fourteen of Ordinance No. 1 of 1915.*

*Section 7.—Repealed by Ordinance No. 11 of 1931.*

*Section 8.—Repealed by Ordinance No. 2 of 1905.*

The following further provisions were added by Ordinance No. 2 of 1905, promulgated on the 8th September, 1905, and cited as the Town Lands Amendment Ordinance, 1905.

*Section 1.—Repealed by Act No. 25 of 1909.*

**Special Provisions relative to Exchange of certain Portion of Town Lands of Middelburg.**

2. Whereas certain portions of the town lands to be transferred to the Council of the Municipality of Middelburg under the provisions of the Town Lands Ordinance 1904 have been allotted by the Crown for occupation by settlers but are subject to a reversionary interest of the said Council under section *eight* of the said Ordinance; and whereas the Commissioner of Lands on behalf of the Lieutenant-Governor has entered into an agreement to transfer to the said Council certain Crown land in or near the said Municipality more suitable for use by the said Council as town lands in consideration of a release by the Council to him of its reversionary interest aforesaid; it is hereby declared that the said agreement the terms of which are fully set forth in the First Schedule to this Ordinance shall be deemed to have been lawfully entered into between the parties thereto and is hereby confirmed as binding on the said parties and upon all other persons whatsoever and the farm Tweefontein and the portion of the farm Uityk referred to in the said agreement shall from and after the date of this Ordinance be deemed to be portion of the town lands of Middelburg and subject to all the provisions of the Town Lands Ordinance 1904 as amended by this Ordinance or any other law and the land known as the Keerom Land Settlement referred to in the said agreement and described in the plan annexed thereto shall on the date aforesaid be released from the operation of all the provisions of the said Ordinance.

**Special Provisions relative to Exchange of Portion of the Town Lands of Potchefstroom.**

3. Whereas certain portions of the town lands to be transferred to the Council of the Municipality of Potchefstroom under the provisions of the Town Lands Ordinance 1904 have been allotted by the Crown for occupation by settlers but are subject to a reversionary interest of the said Council under section *eight* of the said Ordinance; and whereas the Commissioner of Lands on behalf of the Lieutenant-Governor has entered into an agreement to transfer to the said Council certain Crown land in consideration of a transfer by the Council of its interest in the lands allotted as aforesaid and for certain other considerations; it is hereby declared that the said agreement the terms of which are fully set forth in the Second Schedule to this Ordinance shall be deemed to have been lawfully entered into between the parties thereto and is hereby confirmed as binding on the said parties and upon all other persons whatsoever and the farms Hesse No. 80 and Nooitverwacht No. 721 referred to in the said agreement shall from and after the date of this Ordinance be deemed to be portion of the town lands of Potchefstroom and subject to all the provisions of the Town Lands Ordinance 1904 as amended by this Ordinance or any other law and the land known as the Mooibank Settlements referred to in the said agreement and described in the plan annexed thereto shall on the date aforesaid be released from the operation of all the provisions of the said Ordinance.

**Transfer of Land to Local Authorities under Lands Ordinances to be free of Transfer Duty Stamp Duty and other Charges.**

4. No transfer duty stamp duty or any registration or other charges shall be paid on the transfer of any lands to the Council of any Municipality under the provisions of the Town Lands Ordinance 1904 or this Ordinance.

**Repeal of Section eight of Ordinance No. 14 of 1904.**

5. Section *eight* of the Town Lands Ordinance 1904 shall be and is hereby repealed.

**Title.**

6. This Ordinance may be cited for all purposes as the Town Lands Amendment Ordinance 1905 and shall be read as one with the Town Lands Ordinance 1904.

FIRST SCHEDULE.

AN AGREEMENT made and entered into this Twelfth day of July 1905 between—

ADAM JAMESON

in his capacity of the Commissioner of Lands of the Transvaal Colony (hereinafter referred to as the Government which said expression shall whenever used in this agreement be deemed to mean and include the Government of the Transvaal Colony for the time being) of the one part and

## THE COUNCIL OF THE MUNICIPALITY OF MIDDELBURG

in the District of Middelburg in the Eastern Transvaal duly constituted and elected as by Law required and acting herein through and by Oltman Charles Weeber (Mayor) and John Campbell and Joseph Henry Laver Councillors in their respective capacities of the Mayor and two of the Councillors of the said Council being duly authorised thereto by Resolution of the said Council passed at a meeting thereof duly convened and held on the Twelfth day of July 1905 and intended to be duly advertised and countersigned as approved by the Lieutenant-Governor of the Transvaal Colony copy of which said Resolution is hereto annexed and certified as such under the hand of the Town Clerk of the said Municipality (hereinafter referred to as the Council which said expression shall wherever used in this Agreement be deemed to mean and include the Council of the Municipality of Middelburg their successors and assigns) of the other part.

Whereas the Government are the owners of certain lands in the District of Middelburg namely the farm Tweefontein No. 303 and portion of the farm Uityk No. 337 and also (subject to the interest of the Council arising under or by virtue of the Town Lands Ordinance 1904) of the Keerom Land Settlements all which said lands are shown upon the plan hereto annexed and are thereby referred to herein by way of identification only and subject to particular definition by legal survey and diagrams intended to be hereafter attached hereto;

And whereas the Council having duly come under the operation of the Municipal Corporations Ordinance 1903 are desirous of acquiring the said farm Tweefontein and the portion of the said farm Uityk to serve as Town Lands for the Town of Middelburg;

And whereas the Government for the furtherance and proper development of their scheme of Land Settlement are desirous of obtaining a release from the Council of their interest before mentioned in that portion of the Keerom Land Settlements which lies to the north-east of the red pencil line shown on the said plan;

And whereas with a view of effectuating the desires of the parties hereto the arrangements herein-after expressed have been agreed between them;

Now therefore the parties hereto hereby mutually agree and declare as follows:—

1. The Government shall in consideration of the release by the Council expressed in Clause 4 hereof forthwith vest in the Council as the Local Authority of Middelburg aforesaid the said farm Tweefontein and the portion of the said farm Uityk aforesaid to serve as town lands for the town of Middelburg within the meaning and under the operation of the Town Lands Ordinance 1904 but subject to all servitudes rights and interests at present subsisting therein in favour of any persons other than the Government but free from the tenants' interests in the portion of Keerom Land Settlements aforesaid hereinafter mentioned.

2. The Government shall within a reasonable time give possession of the lands to the Council and such possession shall in respect of the portion of the Keerom Land Settlements aforesaid be free from all tenant interest of Settlers thereon. All buildings, fencing and improvements now existing upon the portion of the Keerom Land Settlements aforesaid shall be deemed to pass with the land without any payment or liability for payment or compensation by the Council in respect thereof.

3. As regard the farm Tweefontein any burgher right erven formerly portion of the said farm shall not be deemed to pass with or be included in the farm intended to be vested in the Council under Clause 1 hereof.

4. The Council shall in consideration of the gifts aforesaid and in pursuance of the power for this purpose vested in them by the Municipal Corporations Ordinance 1903 and with the consent of the Lieutenant-Governor of the said Colony testified by his signature to the Resolution of the Council herein-before referred to forthwith release to and in favour of the Government all the right title property claim and interest of the Council whether in possession reversion or expectancy arising under and by virtue of the Town Lands Ordinance 1904 and particularly under Section 5 thereof or in any manner whatsoever to of and in the portion of the Keerom Land Settlements which lies to the north-east of the red pencil line shown on the said plan to the intent that all such right title property claim and interest shall be merged and extinguished in the freehold of the said lands for the benefit of the Government and that such lands shall be absolutely freed and discharged therefrom and from all claims and demands by the Council arising now or hereafter in any manner whatsoever but subject to any servitudes existing in favour of any other persons.

5. Each of the parties hereto shall sign and pass all such transfers documents and assurances obtain the approval of the Lieutenant-Governor hereto and do all such acts as may be deemed necessary or expedient for the purpose of simultaneously fully and effectually carrying out and concluding the several provisions of this agreement in proper form and manner according to the laws of this Colony.

6. The legal costs and expenses incurred in carrying out the last preceding clause and in the preparation and completion of this agreement and the expenses of all necessary surveys and diagrams shall be borne and paid by the Government.

Thus done and passed at Middelburg, Transvaal, on the day month and year first aforesaid in the presence of the subscribing witnesses.

As Witnesses:

HUTTON WATERMEYER.  
B. J. V. D. HORST, JUN.

Signed at Pretoria the 13th day of July 1905.

As Witnesses to the Signature of the beforenamed Adam Jameson:

G. R. HUGHES.  
A. E. CHARTER.

O. C. WEBBER,  
*Mayor.*  
J. H. LAVER,  
*Councillor.*  
JNO. CAMPBELL,  
*Councillor.*

ADAM JAMESON.

## ANNEXURE TO FIRST SCHEDULE.

Minutes of a Special Meeting of the Council of the Municipality of Middelburg held in the Municipal Offices on the 12th July 1905.

Proposed by Mr. Hanna.  
Seconded by Mr. Vervuil.

*Resolved:* That the Mayor and Councillors Campbell and Laver be authorised to sign all agreements and leases relating to the Town Lands as already dealt with by the Council.

O. C. WEBBER,  
*Mayor.*  
HUTTON WATERMEYER,  
*Town Clerk.*

Approved:

ARTHUR LAWLEY,  
*Lieutenant-Governor.*

13th July, 1905.

## SECOND SCHEDULE.

AGREEMENT OF SALE AND EXCHANGE made and entered into on this tenth day of July One thousand Nine hundred and Five between



ADAM JAMESON

in his capacity as Commissioner of Lands and as such herein representing the Government of The Transvaal of the one part hereinafter referred to as the Government and

MARTHINUS ANDREAS GOETZ

in his capacity as Mayor of the Municipality of Potchefstroom and as such duly authorised by the Town Council of the said Municipality by Resolution dated 10th July 1905 to enter into these presents of the second part hereinafter referred to as the said Council.

WITNESSETH:—

That the said Council has agreed to sell to the said Government who has agreed to purchase for the considerations after-mentioned all the right title and interest whatsoever of the said Municipality in and to certain piece of land at present known as the Mooibank Settlement and shown in red on the annexed plan together with an adjoining piece of land shown in blue on the annexed plan with the rights and on the conditions as in these presents set out:—

(1) The Government shall be entitled to take for use and enjoyment on the land hereby purchased and any other land which may come under its control in the neighbourhood a full one-third share of the water which the said Council is entitled to take from the Mooi River.

The share of water shall be taken at the bifurcation of the existing canals below the Mooi River railway bridge.

To permit of a satisfactory division being made the Government shall be entitled to construct and maintain regulators to apportion the supply automatically between the two canals and shall further construct and maintain an escape for the return to the river of any surplus water going down the joint canal during floods.

The Government shall be entitled to construct and maintain from the aforesaid point of bifurcation to termination the necessary canal or pipes to convey the water and shall for this purpose be entitled to the free use and enjoyment of a strip of land 30 feet wide on each side of the centre line of such canal or line of pipes.

The Government shall be entitled to fence in and enclose the land so reserved on each side of the canal or line of pipes and shall have full control thereover saving always the leaving of such crossings as may be necessary in the public interest.

The Government shall be entitled to maintain the joint canal and to construct such works as are necessary for its proper maintenance along its length and at its intake in order that normal supply may be maintained.

If and when certain proposed reservoir is made for the better distribution of the water the whole question of the division of the river supply shall be settled in accordance with the new conditions thereby created.

(2) Appurtenant to each original plot on the existing Mooibank Settlement (the plots being 62 in number) shall be the right to grazing on the open lands of the town commonage for 25 head of great stock and 100 head of small stock (goats or sheep).

(3) All expenses of survey transfer as also the expenses of this Deed of Sale and of all notarial contracts which may be required to be drawn and passed as a result of these presents shall be borne by the Government.

(4) In consideration of the premises aforesaid the Government agrees to pay to the said Council in cash upon registration and completion of the necessary documents of title the sum of twenty-one thousand pounds (£21,000) and further to transfer to the said Council certain two farms viz.: Hesse No. 80 and Nooitverwacht No. 721 in the District of Potchefstroom together with all mineral rights thereon.

(5) Inasmuch as some of the terms and conditions of this contract or portions thereof are or may be deemed to be contrary or repugnant to existing laws and by reason thereof such terms and conditions or some of them or portions thereof cannot be performed it is expressly agreed between the parties that in case such legislation or legislative sanction in respect of this contract may be necessary cannot be obtained in its present form or with such modifications as may be assented to by both parties before the Thirtieth (30th) day of September next this contract shall become void.

This done and agreed at Potchefstroom on the Tenth day of July in the year of Our Lord One thousand Nine hundred and Five.

Signed at Pretoria by the Commissioner of Lands this eleventh day of July 1905.

ADAM JAMESON,  
*Commissioner of Lands.*

As Witnesses:  
G. R. HUGHES.  
A. E. CHARTER.

M. A. GOETZ,  
*Mayor of the Municipality of  
Potchefstroom.*

As Witnesses:  
P. FERRERO.  
J. J. HARTLEY.

No. 24 of 1904.]

[Assented to 28th July, 1904.]

## ORDINANCE

## To Provide for the Settlement of Differences by Arbitration.

BE IT ENACTED by the Lieutenant-Governor of the Transvaal with the advice and consent of the Legislative Council thereof as follows:—

## PRELIMINARY.

## Repeal of Laws.

1. So much of any law as is repugnant to or inconsistent with the provisions of this Ordinance shall be and is hereby repealed.

## Interpretation of Terms.

2. In this Ordinance unless a contrary intention appears:

“submission” means a written agreement to submit present or future differences to arbitration whether an arbitrator is named therein or not;

“Court” means the Supreme Court the Witwatersrand High Court and any Circuit Court hereafter established in this Colony;

“Judge” means a Judge of the Supreme Court;

“official referee” means a referee appointed by the Court or a Judge thereof;

“special referee” means any particular person appointed to be a referee in any particular matter.

## REFERENCES BY CONSENT OUT OF COURT.

**Effect of a Submission.**

3. A submission unless a contrary intention is expressed therein shall be irrevocable except by leave of the Court or a Judge or by consent of all the parties thereto and shall have the same effect in all respects as if it had been made an Order of Court.

**Submission to Include Provisions in Schedule.**

4. A submission unless a contrary intention is expressed therein shall be deemed to include the provisions set forth in the Schedule to this Ordinance so far as they are applicable to the reference under the submission.

**Official Referee.**

5. Where a submission provides that the reference shall be to an official referee any official referee to whom application is made shall subject to any Order of Court or a Judge hear and determine the matters agreed to be referred.

**Staying of Legal Proceedings.**

6. If any party to a submission or any person claiming through or under him commences any legal proceedings in any Court against any other party to the submission or any person claiming through or under him in respect of any matter agreed to be referred to arbitration any party to such legal proceedings may at any time after appearance and before delivering any pleadings or taking any other steps in the proceedings apply to that Court to stay proceedings and that Court or a Judge thereof if satisfied that there is no sufficient reason why the matter should not be referred in accordance with the submission and that the applicant was at the time when the proceedings were commenced and still remains ready and willing to do all things necessary to the proper conduct of the arbitration may make an order staying the proceedings.

**Provision Excluding Arbitration on certain Matters.**

7. Criminal matter so far as the prosecution or punishment thereof is concerned shall not be submitted to arbitration nor without special leave of the Court shall any of the following matters be submitted to arbitration namely:—

- (a) matters relating to status;
- (b) matrimonial causes; or
- (c) matters in which minors or other persons under legal disability may be interested.

**In what Cases Written Notice to Appoint an Arbitrator may be Served.**

8. In any of the following cases:

- (a) where a submission provides that the reference shall be to a single arbitrator and all the parties do not after differences have arisen concur in the appointment of an arbitrator;
- (b) if an appointed arbitrator fails or refuses to act or is incapable of acting or dies and the submission does not show that it was intended that the vacancy should not be supplied and the parties do not supply the vacancy;
- (c) when the parties or two arbitrators are at liberty to appoint an umpire or third arbitrator and do not appoint him in any case where such appointment is requisite for the decision of the matters in dispute or the due conduct of the arbitration;
- (d) when an appointed umpire or third arbitrator fails or refuses to act or is incapable of acting or dies and the submission does not show that it was intended that the vacancy should not be supplied and the parties or arbitrators do not supply the vacancy;

any party may serve the other parties or the arbitrators as the case may be with a written notice to appoint or if agreement be necessary to agree in the appointment of an arbitrator or umpire or third arbitrator.

If the appointment is not made or agreed to as the case may be within seven clear days after the service of the notice the Court or a Judge may on application of the party who gave the notice and upon notice to the other party appoint an arbitrator umpire or third arbitrator who shall have the like powers to act in the reference and make an award as if he had been appointed by consent of all parties.

**Supply of Vacancy in case the Submission Provides for two Arbitrators.**

9. When a submission provides that a reference shall be to two arbitrators one to be appointed by each party then unless the submission expresses a contrary intention:

- (a) if either of the appointed arbitrators fails or refuses to act or is incapable of acting or dies the party who appointed him may appoint a new arbitrator in his place;

(b) if on such reference one party fails to appoint an arbitrator either originally or by way of substitution as aforesaid for seven clear days after the other party having appointed his arbitrator has served the party making default with notice to make the appointment the party who has appointed an arbitrator may appoint that arbitrator to act as sole arbitrator in the reference and his award shall be binding on both parties as if he had been appointed by consent;

provided that the Court or a Judge may set aside any appointment made in pursuance of this section.

**Arbitrators and Umpires to be Disinterested Parties.**

10. Every arbitrator and umpire must be and continue throughout the reference to be disinterested with reference to the matters referred and the parties to the reference and any party to a reference may require any arbitrator or umpire to make a sworn declaration before beginning or continuing his duties as such arbitrator or umpire that he has no interest direct or indirect in the matters referred or in the parties to the reference and knows of nothing disqualifying him from being impartial and disinterested in the discharge of such duties; provided always that any party may expressly waive any right to object to any arbitrator or umpire on the grounds of interest or the like.

**Court may Remove Arbitrator or Umpire.**

11. The Court may at any time upon motion remove any arbitrator or umpire against whom a just ground of recusation is found to exist or who has misconducted himself in connection with the matters referred to arbitration.

**Powers of Umpire or Arbitrator.**

12. The arbitrator or umpire acting under a submission shall unless the submission expresses a contrary intention have power:

(a) to administer oaths or to take the affirmations of the parties and witnesses appearing; and

(b) on the application of either party to appoint a Commissioner to take the evidence of a person residing outside the Colony and forward the same to arbitrators in the same way as if he were a Commissioner appointed by the Court; and

(c) to state an award as to the whole or part thereof in the form of a special case for the opinion of the Court; and

(d) to correct in any award any clerical mistake or error arising from any accidental slip or omission.

**Party to Submission may take out Process of Court for Witnesses.**

13. Any party to a submission may take out process of the Court for the attendance of witnesses but no person shall be compelled under any such process to produce any document which he could not be compelled to produce on the trial of any action.

**Time of Making Award.**

14. The time for making an award may from time to time be enlarged by order of the Court or a Judge whether the time for making the award has expired or not.

**Remission of Case to Arbitrator or Umpire.**

15. (1) In all cases of reference to arbitration the Court or a Judge may from time to time remit the matters referred or any of them to the reconsideration of the arbitrators or umpire.

(2) When a matter is remitted as aforesaid the arbitrators or umpire shall unless the order of remittal otherwise directs make their award within three months after the date of such order.

**Misconduct of Arbitrator or Umpire.**

16. (1) Where an arbitrator or umpire has misconducted himself the Court may remove him.

(2) Where an arbitrator or umpire has misconducted himself or an arbitration or award has been improperly procured the Court may set the award aside and may award costs against any such arbitrator or umpire personally.

**Award; how to be Enforced.**

17. An award which has been made a rule of Court may be enforced in the same manner as a judgement or order to the same effect.

**Arbitrators or Umpire may Appoint Place for Arbitration if not already Provided for.**

18. Where the submission does not provide in what place the arbitration shall be held the arbitrators or umpire may from time to time decide upon such place as may be reasonably accessible to the parties and convenient for the purposes of the reference.

## REFERENCES UNDER ORDER OF COURT.

**Official and Special Referees and Officers of Court.**

19. (1) Subject to Rules of Court the Court or Judge may refer any question arising in any cause or matter (other than a criminal proceeding) for enquiry or report to any official or special referee or officer of the Court.

(2) The report of an official or special referee or officer of the Court may be adopted wholly or partially by the Court or a Judge and with or without such amendments as may to the Court or Judge seem meet and if so adopted may be enforced as a judgment or order to the same effect or the Court or a Judge may remit the report for further consideration or make such other order thereon as may be just.

**Matters which may be Referred to Referees for Trial.**

20. In any cause or matter (other than a criminal proceeding);

(a) if all the parties interested who are not under disability consent; or

(b) if the cause or matter requires any prolonged examination of documents or any scientific technical or local investigation which cannot in the opinion of a Court or Judge conveniently be conducted by the Court through its ordinary officers; or

(c) if the question in dispute consists wholly or in part of matters of account;

the Court or Judge may at any time order the whole cause or matter or any question or issue of fact arising therein to be tried before an official or special referee or arbitrator agreed on by the parties or failing agreement before any official referee or officer of the Court appointed by the Court.

**Duty of Referee and Effect of his Report or Award.**

21. (1) In all cases of reference to an officer of the Court or to an official or special referee or arbitrator under an order of Court or a Judge in any cause or matter the official or special referee or arbitrator shall be deemed to be an officer of the Court and shall have such authority and shall conduct the reference in such manner as may be prescribed by Rules of Court and subject thereto as the Court or a Judge may direct.

(2) The report or award of any official or special referee or arbitrator or officer of the Court on any such reference shall unless set aside by the Court or a Judge be equivalent to a finding of fact by the Court.

(3) The remuneration to be paid to any official or special referee or arbitrator or officer of the Court to whom any matter is referred by order of the Court or a Judge shall be determined by the Court or a Judge or by Rules of Court.

**Award may be made a Rule of Court.**

22. The report or award of any officer of the Court or official or special referee or arbitrator may upon motion by any party after due notice to the other parties be made a judgment or order of the Court.

**Powers of Court or Judge as to References.**

23. The Court or a Judge shall as to references under order of the Court or a Judge have all the powers which are by this Ordinance conferred on the Court or a Judge as to references by consent out of Court.

## GENERAL.

**Subpoena or Summons.**

24. The issue of a subpoena or summons on a witness to compel his attendance and the production of things or documents before an arbitrator arbitrators, umpire, officer of the court and official or special referee as the case may be may be procured in the same way and subject to the same conditions as if the matter were an action pending in the Court;

(a) by any party to a submission or any arbitrator, arbitrators or umpire thereunder;

(b) by the parties to any reference under any order of Court; or

(c) by any officer of the Court official or special referee hearing any reference under order of Court;

provided always:

(1) that no person shall be compelled on such subpoena to produce any document or thing the production of which would not be compellable on trial of an action;

(2) that the Clerk of the Court of any Resident Magistrate may issue such subpoena in the name and on behalf of the Registrar of the Court upon payment of the same fees as are chargeable for the issue of a subpoena in the Magistrate's Court.

**General Powers of Court or Judge.**

25. The Court or a Judge may order the process of the Court to issue to compel the attendance before a special or official referee or officer of the Court or before an arbitrator or umpire of a witness wherever he may be within the jurisdiction of the Court or may order any prisoner to be brought up for examination before such officer referee arbitrator or umpire.

**Special Case Stated by Umpire Referee Arbitrator or Officer.**

26. Any such officer referee arbitrator or umpire may at any stage of the proceedings under a reference and shall if so directed by the Court or a Judge state in the form of a special case for the opinion of the Court any question of law arising in the course of the reference.

**Costs.**

27. Any order made under this Ordinance may be made on such terms as to costs or otherwise as the authority making the order thinks just.

**False Evidence.**

28. Any person who wilfully or corruptly gives false evidence before any such officer referee arbitrator or umpire shall be guilty of perjury in the same way as if the evidence had been given in open Court and may be dealt with prosecuted and punished accordingly.

**Ordinance not to be Retroactive.**

29. This Ordinance shall not affect any arbitration pending at the date of the taking effect of this Ordinance but shall apply to any arbitration commenced after such date of this Ordinance under any agreement or order made before such date.

**Not to Affect Arbitration under Expropriation of Lands and Arbitration Clauses Proclamation 1902 except by Consent.**

30. Nothing in this Ordinance shall apply to any arbitration under the Expropriation of Lands and Arbitration Clauses Proclamation 1902 unless all the parties to the arbitration shall otherwise agree in writing and then the said Proclamation and this Ordinance shall be read together.

**Title.**

31. This Ordinance may be cited as the Arbitration Ordinance 1904.

**SCHEDULE.****PROVISIONS TO BE IMPLIED IN SUBMISSION.**

- (a) If no other mode of reference is provided the reference shall be to a single arbitrator.
- (b) If the reference is to two arbitrators then for the decision of any question they must both agree but if to more than two then the decision of the majority of arbitrators shall determine all questions.
- (c) If the reference is to two arbitrators the two arbitrators may appoint an umpire at any time within the period during which they have power to make an award.
- (d) The arbitrators shall make their award in writing within three months after entering on the reference or after having been called on to act by notice in writing from any party to the submission if the latter be the earlier date or on or before any later day to which the arbitrators by any writing signed by them may from time to time enlarge the time for making the award; provided that such further period shall not exceed four months.
- (e) If the arbitrators have allowed their time or extended time to expire without making an award or have delivered to any party to the submission or to the umpire a notice in writing stating that they can not agree the umpire may forthwith enter on the reference in lieu of the arbitrators.
- (f) The umpire shall make his award within one month after the original or extended time appointed for making the award of the arbitrators has expired or on or before any later day to which the umpire by any writing signed by him may from time to time enlarge the time for making his award provided that such further time shall not exceed three months.
- (g) The parties to the reference and all persons claiming through them respectively shall subject to any legal objection submit to be examined by the arbitrator or umpire on oath or affirmation in relation to the matters in dispute and shall subject as aforesaid produce before the arbitrators or umpire all books deeds accounts papers writings and documents within their possession or power respectively which may be required or called for and to do all other things which during the proceedings on the reference the arbitrators or umpire may require.
- (h) The witnesses on the reference shall if the arbitrators or umpire think fit be examined on oath or affirmation.
- (i) The award to be made by the arbitrators or umpire shall be final and binding on the parties and the persons claiming under them respectively.
- (j) The cost of the reference and award shall be in the discretion of the arbitrators or umpire who may direct to and by whom and in what manner those costs or any part thereof shall be paid and may tax or settle the amount of costs to be so paid or any part thereof and may award costs to be so paid as between solicitor and client; provided always that if no direction be given as to the scale on which such costs are to be taxed they shall be taxed on the tariff allowed in Magistrates' Courts from time to time if the award is such as a Magistrate might have pronounced as a judgment in his Court but otherwise such costs shall be taxed on the tariff in force from time to time in the Supreme Court.
- (k) The oral evidence of witnesses shall be recorded by the arbitrator or arbitrators or umpire before whom it may be given in such manner as may be by him or them from time to time directed if not recorded by the arbitrator arbitrators or umpire themselves.
- (l) The umpire shall be at liberty to act upon the evidence recorded before the arbitrators and to make his award without hearing any witnesses or receiving any fresh evidence; provided nevertheless that he shall be entitled if he so think fit to re-hear the witnesses or any of them or to call for further evidence.

(m) The umpire shall be at liberty to sit together with the arbitrators and to hear the evidence given from time to time and shall be entitled then and there to decide any interlocutory matter upon which the arbitrators disagree; provided however that the umpire shall not unless called upon to give an award or unless the parties have requested him so to sit be entitled to demand remuneration from the parties in respect of his attendance on the reference with the arbitrators.

(n) If the arbitrators where there is more than one or a majority of them cannot agree as to any matter of procedure or any interlocutory question they may refer such matter or question forthwith to the umpire for decision and he shall give his decision thereon forthwith.

(o) The arbitrator arbitrators or umpire shall be at liberty to proceed *ex parte* in case any party after reasonable notice shall at any time neglect or refuse to attend on the reference without having shown previously to them what they may consider good and sufficient cause for omitting to attend.

(p) If any party to the arbitration die the arbitration shall be stayed subject to any order that the Court may make until the appointment of an executor or other proper representative of such deceased party and the time for making an award shall be extended for the same period as may elapse between the death of the party and the appointment of an executor or other proper representative and such executor or other proper representative shall when called upon by the other party or parties to the submission to proceed with the arbitration be subject to the same rules provisions and conditions as the deceased party.

No. 44 of 1904.]

[Assented to 17th August, 1904.]

## ORDINANCE

**To provide for the Proclamation and Establishment and Definition of Public Roads within the Districts of Local Authorities.**

WHEREAS all original titles to farms in this Colony as granted by the Government of the late South African Republic are made subject to the conditions that all roads leading over such farms made by lawful authority shall remain free and unobstructed;

And whereas it is desirable to define and amend the powers of the Government with reference to the establishment proclamation and definition of public roads over land within the jurisdiction of local authorities in accordance with the aforesaid conditions;

And whereas it is desirable where any public road passes over ground held under a mining title that provision should be made for the closing and diversion of such road for purposes connected with the working of precious and base metals;

Be it enacted by the Lieutenant-Governor of the Transvaal with the advice and consent of the Legislative Council thereof as follows:—

## GENERAL.

**Interpretation of Terms.**

1. In this Ordinance unless inconsistent with the context:—

“local authority” shall mean a city council or a town council or a village council constituted under the Local Government Ordinance, 1926, or any amendment thereof\*.

“public road” shall mean any road vested in any local authority;

“land” shall mean and include land or other fixed property of any tenure and land held under claim license mynpacht or other mining title.

**Notices.**

2. Where any notice order or other document is required by this Ordinance to be served on or given to any person it shall either be served personally on such person or left at or sent by post to his last usual place of abode or business; and in case any such person shall be absent from this Colony any such notice order or document shall be served on any agent of such person.

**Failure to Give or Comply with Notice.**

3. Any person failing to give or to comply with any such notice or order shall be deemed to have committed a breach of this ordinance.

## PART I.

## THE PROCLAMATION AND DEFINITION OF PUBLIC ROADS.

**Petition to the Lieutenant-Governor for the Establishment of Public Roads.**

4. It shall be lawful for the Lieutenant-Governor upon the petition of any local authority to establish public roads within the area of such authority by a proclamation published in the *Gazette*†; provided always that no such public road shall be proclaimed over erven or over building lots or stands in townships shown on plans filed with the Registrar of Mining Rights or over mining stands held under licenses duly registered. Such petition shall contain an accurate description of the course situation and width of the proposed road and shall indicate the general nature of the ground over which it is to run and whether the same consists of arable or grazing land or is cultivated or planted with trees or otherwise improved and what are the interests of the owners lessees or occupiers of such land and shall be accompanied by a diagram or sketch plan showing the course of such road. A copy of the said petition

\* As amended by section one of Ordinance No. 8 of 1930.

† As amended by section two of Ordinance No. 8 of 1930.

and of the diagram accompanying the same shall be deposited at the offices of the petitioning local authority and shall be open to the inspection of all persons.

**Notification of such Petition to the Public and Persons concerned.**

5. After the said petition and diagram have been sent to the Lieutenant-Governor and deposited at the offices of the petitioning local authority such authority shall forthwith proceed to notify all persons interested that a petition for the proclamation of a public road has been sent to the Lieutenant-Governor. Such notification shall be:

(a) by the publication of five\* successive issues of the *Gazette* and once a week for five† successive weeks in some newspaper circulating within the area of the local authority of an advertisement which shall set forth the general course and situation of the proposed road and shall refer to the petition and diagram deposited at the offices of the local authority as aforesaid and shall call upon all persons interested to lodge objections to the proclamation of the proposed road in writing in duplicate with the Colonial Secretary and the local authority within one month of the latest publication of the said advertisement; and

(b) by serving on every owner and lessee of any land through which the proposed road is to run a notice defining the course and situation of such road in so far as the same affects any such owner or lessee.

For the purpose of this sub-section, the term "owner" shall with respect to land under mining title mean the holder of such title and with respect to land held under a stand license mean the holder of such license.

**Enquiry by the Lieutenant-Governor.**

6. If no objections are filed in accordance with sub-section (a) of the last preceding section the Lieutenant-Governor may and if any such objections are so filed the Lieutenant-Governor shall upon due proof of the proper advertisements having been published and notices served appoint some person or persons to make an enquiry on the spot into the propriety of the proposed road and the objections thereto and to report to the Lieutenant-Governor on the matters in respect of which such enquiry was directed and on receiving such report the Lieutenant-Governor may proclaim such road with or without such alterations or modifications as he may think fit subject to the payment of such compensation as is provided for in this Ordinance.

**Roads so Established Vest in the Local Authority.**

7. All public roads established under the provisions of this part of this Ordinance shall on proclamation thereof vest in the local authority in whose district the same are situated in the same manner and subject to the like provisions and conditions as are provided in section *sixty-two* of the local Government Ordinance, 1926†

**Definition by Diagram of Public Road.**

8. If at any time it shall appear to the local authority advisable that any public road or portion thereof within its area should be defined such local authority shall deposit a diagram showing the course and situation of such public road or portion thereof and the properties over which it is to pass and accurately defining the width and alignment thereof and shall also deposit a copy of such diagram in the Surveyor-General's office and shall at the same time publish in four successive issues of the *Gazette* and in four issues in four successive weeks of a newspaper circulating within the area of such local authority a description of such public road or portion of a public road together with a reference to the diagram thereof and such road shall thereupon become and remain established according to the course and situation thereof as shown in the said description and diagram subject to the provisions of Part III of this Ordinance and to the payment of such compensation as is provided for by this Ordinance.

**Fencing.**

9. No person shall erect or maintain a fence across any portion of a public road without the consent of the local authority anything in Law No. 9 of 1893 or any other law to the contrary notwithstanding.

**PART II.**

**COMPENSATION TO PERSONS DAMAGED BY THE PROCLAMATION AND DEFINITION OF PUBLIC ROADS.**

**Compensation.**

10. The following provisions shall apply with respect to the right to or payment of compensation arising out of the proclamation of any new public road

\* As amended by section *three* of Ordinance No. 8 of 1930.

† As amended by section *four* of Ordinance No. 8 of 1930.

or the definition of any existing public road under the provisions of this Ordinance:—

(a) compensation shall be payable on the amount of damage or diminution in value caused to any house homestead cultivated ground orchard plantation or other improvement on any land through or over which any such road passes directly and immediately sustained in consequence of the proclamation or definition of such road;

(b) whenever the land taken for any road exceeds one-twentieth of the whole extent of land held under one title compensation shall be payable for the value of the land so taken as well as for any depreciation in value caused thereby to the remaining portion of the land held as aforesaid;

(c) such compensation shall be payable by the local authority concerned and the amount thereof if not agreed on between the parties interested shall be determined by arbitration in manner hereinafter provided.

#### **Arbitration.**

11. The Supreme Court shall upon application by the local authority appoint three arbitrators in the manner hereinafter provided to whom shall be referred all questions of disputed compensation under this Ordinance in respect of any new or existing public road and the decision of the majority of whom shall be final. At least thirty days before making such application as aforesaid, the local authority shall give notice of its intention to do so in the *Gazette* and in one or more daily newspapers circulating within the area of the local authority and shall publish in such notice a list of one or more persons whose names shall be submitted to the Supreme Court for appointment as arbitrators and any other party interested in the arbitration may appear on such application and propose any other person or persons to the Supreme Court as arbitrators and the Supreme Court shall appoint one arbitrator from the list submitted by the local authority and one from among the persons proposed by the other parties interested and the persons so appointed shall select a third arbitrator; provided that if upon such application the local authority or the other parties interested do not propose any fit person or arbitrators or if the arbitrators appointed do not within fourteen days of such appointment select a third arbitrator the Supreme Court shall make the necessary appointments so that the number of arbitrators shall be three and no more; and provided further that in any case in which the compensation claimed shall be under one hundred pounds or in which the local authority and the claimant shall so agree the amount of compensation shall be determined by a single arbitrator to be appointed by the Supreme Court upon application by the local authority after fourteen days notice in writing to the claimant.

#### **Death or Incapacity of any Arbitrator.**

12. If any arbitrator appointed for the purpose of this Ordinance dies or becomes incapable to act or fails to act for fourteen days after his appointment it shall be lawful for the Supreme Court on the application of the party by whom he was proposed after similar notice to that required in the last preceding section to appoint some other person as arbitrator in place of the person so dying or becoming incapable or failing to act as aforesaid.

#### **Hearing by Arbitrators.**

13. The arbitrator or arbitrators appointed as aforesaid shall immediately upon his or their appointment as the case may be sit for the hearing and determination of all matters referred to him or them respectively and shall continue so to sit with such adjournments as he or they may from time to time deem fit until all matters referred shall have been heard and determined and it shall be in the discretion of such arbitrator or arbitrators, as the case may be to arrange the order in which such matters referred to him or them respectively shall be so heard and determined.

#### **Award by Arbitrators.**

14. An award or decision shall be given by the arbitrator or arbitrators as the case may be in each matter referred and such award shall in each case be given within twenty-one days after the first hearing of evidence in regard thereto or within such extended time (if any) as shall be appointed for that purpose by such arbitrator or arbitrators as the case may be.

#### **Evidence.**

15. The said arbitrator or arbitrators may call for the production of any document in the possession or power of either party except any valuation of property or rights expropriated which either party may have made for his own purpose which he or they may think necessary for determining the matter referred and the arbitrator or arbitrators as the case may be may examine the parties or witnesses on oath or affirmation and may administer the oaths necessary for that purpose.



**Provisions of Commissions' Powers Ordinance 1902 to apply to Proceedings.**

16. The provisions of the Commissions' Powers Ordinance 1902 shall *mutatis mutandis* apply to all proceedings before any arbitrator or arbitrators appointed under this Ordinance as if he or they were a Commission appointed by the Lieutenant-Governor for the purpose of enquiring into the matters referred to him or them under this Ordinance; the summonses for the attendance of witnesses or the production of documents may be signed by any arbitrator.

**Notice of Sittings.**

17. The arbitrator or arbitrators as the case may be shall give to each party concerned at least five days' notice of the time when and the place where it is intended to hold any sitting for hearing any evidence or arguments in connection with any particular matter referred.

**Appearance of Parties.**

18. Upon all proceedings before any arbitrator or arbitrators each party may appear in person or by counsel solicitor or admitted law agent and may produce such witnesses and documentary evidence as the arbitrator or arbitrators shall allow.

**Inspection of Awards.**

19. The arbitrator or arbitrators as the case may be shall deliver his or their award in writing to the local authority and such local authority shall retain the same and shall within two days furnish a copy thereof to the other party concerned if he can be found and shall at all times on demand produce the said award and allow the same to be inspected or examined by such party or any person appointed by him for that purpose.

**Award may be made a Rule of the Supreme Court.**

20. The award of the arbitrator or arbitrators may be made a rule of the Supreme Court or of the Witwatersrand High Court on the application of either party.

**Costs.**

21. All the costs of the arbitration and incident thereto shall be borne by the local authority unless the arbitrator or arbitrators shall award the same or a less sum than shall have been offered by the local authority in which case each party shall bear its own costs and the costs of the arbitrators shall be borne by the local authority. Any costs recoverable by one party from the other, shall be taxed by the Taxing Officer of the Supreme Court or Witwatersrand High Court on the scale of charges allowed in those Courts.

**PART III.****THE DIVERSIONS AND CLOSING OF PUBLIC ROADS FOR MINING PURPOSES.****DEFINITIONS.****Interpretation of Terms.**

22. For the purpose of this part of this Ordinance unless inconsistent with the context:—

- (a) "mining ground" shall mean ground held under any mining title;
- (b) as used in connection with any mining ground the word "owner" shall include any person registered as the holder of the title to such mining ground or carrying on operations therein under an agreement with such holder; and for the purpose of service of notices or of prosecutions for contraventions of the provisions of this Ordinance or recovering any damages or other sum under this Ordinance if such holder or person as aforesaid be a firm or partnership all or any one or more of the members of such firm or partnership shall be deemed to be the owner; and in case such holder or person as aforesaid be any public company or any body of persons not being a firm or partnership, the secretary or manager of such company or body or should there be no secretary or manager resident within this Colony then any member of the board of directors or managing board or committee of such company or body or the mine manager in the employ of such company or body shall be deemed to be the owner.

**Application to District Registrar of Mining Rights for a Provisional Order to Divert a Public Road running over Mining Ground.**

23. (1) It shall be lawful for the owner of any mining ground to give written notice to any owner of any other mining ground to appear before the District Registrar of Mining Rights upon a day to be fixed by him at least thirty days after the date of the service of such notice as aforesaid and to show cause why such first mentioned owner should not cause any public road to be diverted in such a way that the diversion will pass over the mining ground of such second mentioned owner.

(2) It shall be lawful for the Commissioner of Mines on the report of the District Registrar of Mining Rights to grant a provisional order authorizing the said first mentioned owner to cause such diversion as aforesaid to be made subject to the consent of the local authority concerned being obtained as provided in this Ordinance.

(3) No such provisional order as aforesaid shall be granted unless the Commissioner of Mines is satisfied that the working of the mining ground on which such diversion is to be made will not be materially impeded or interfered with or obstructed thereby.

(4) The Commissioner of Mines in granting any such provisional order may limit the same by such terms conditions and restrictions as shall appear to him to be required for the protection of the owner of the mining ground on which the diversion is to be made in the proper working thereof.

(5) Nothing in this section contained shall be deemed in any way to prejudice the right of the owner on whose mining ground any such diversion as aforesaid is made to recover from the owner making such diversion damages for any injury which he may prove has been sustained by him by and in consequence of such diversion.

#### **Mining Operations Dangerous to Public Roads.**

24. No person shall carry on any mining operations which in the opinion of the Government Mining Engineer are likely to cause damage to a public road or to be dangerous to persons using it; provided always that the owner of any mining ground may:—

(a) carry any wires electric or otherwise across such road subject to such regulations as may be made by the Government Mining Engineer;

(b) lay any railway or tramway lines across such road; provided that the surface of the road between the rails and for two yards on either side thereof shall be maintained hard smooth and level with the top of such rails; and provided further that such owner as aforesaid shall observe such precautions as may be prescribed by regulations made by the local authority for the safety of the public;

(c) construct any bridge across such road provided that a minimum headway of at least eighteen feet and two clear spans of not less than twenty-two feet six inches each shall be provided for; or to construct any culvert or subway under such road;

(d) carry on under such road all mining operations which are not in the opinion of the Government Mining Engineer likely to cause damage to such road.

#### **Application for Permission to Close any Public Road.**

25. Any person who intends to commence any operations in mining ground which may cause danger or damage to any public road shall forward to the Town Clerk of the Local Authority within which such road is situate a written application for the permanent or temporary diversion of such road and shall with such application deposit fifty pounds with the Town Clerk.

#### **Contents of Application.**

26. With every such application shall be lodged:—

(a) a description of the proposed operations with an approximate estimate of the period during which any such operations endangering the road will be continued;

(b) in the case of a proposed diversion the name of the owner or occupier of the land through which such diverted road will pass from the point where it leaves its former course until it rejoins a public road;

(c) in every case where the proposed diversion will pass over the land of any other person than the applicant the written consent of such person; provided always that in cases where such land is mining ground a certified copy of a provisional order of the Commissioner of Mines under section *twenty-three* may be substituted for such written consent;

(d) an undertaking by the applicant to pay any sums that may become due under section *forty* hereof guaranteed by two surities owning rateable property of the value of one thousand pounds each within the area of the local authority;

(e) a true description of the existing road and of the proposed diversion with a sketch plan thereof;

provided always that the written consent of any person under paragraph (c) shall be without prejudice to any right to compensation that such person may have under this Ordinance and further that no guarantee under paragraph (d) shall be required if security sufficient in the opinion of the local authority to cover any sums that may become due under section *forty* hereof be deposited with the local authority at the time when the application is made. Any part of such security and of the fifty pounds deposited by the applicant as aforesaid that may remain over after complete satisfaction of any claims under section *forty* shall be returned to the applicant.

**Inspection of Proposed Diversion or new or Alternative Road by Local Authority.**

27. On receiving such application the local authority shall cause the course of the proposed diversion to be inspected and if the local authority shall be of opinion that such diversion will not adequately meet the needs of the public the local authority may by written notice refuse to grant the application.

28. If the local authority is satisfied that the proposed diversion will adequately meet the needs of the public the Town Clerk shall publish a notice in the *Gazette* and in one or more newspapers circulating within such Municipality or Urban District and shall cause a copy of such notice in legible characters to be placed in a conspicuous position at each place where the public road is proposed to be diverted.

**Contents of Notice.**

29. The notice mentioned in the last preceding section shall contain:—

(a) the particulars and information mentioned in paragraphs (b) and (e) of section *twenty-six* hereof and an intimation that a plan showing the existing road and the proposed diversion may be inspected upon applying at the offices of the local authority;

(b) a list showing the names of the owners and occupiers whose written consent to such diversion has been received by the Town Clerk or in respect of whom the provisional order mentioned in section *twenty-three* has been obtained;

(c) an invitation to all objectors to the proposed diversion or closing to appear before the local authority or a committee thereof duly appointed for the purpose at an hour and date to be named in such notice being not less than fourteen days after the publication thereof;

(d) an invitation to any person owning or occupying land through which the existing road passes or the diverted road will pass who will suffer damage in respect of such land in consequence of such closing or diversion or any other person aggrieved thereby to send in a claim for compensation within a time to be specified in such notice being not less than three months after the date of such notice.

**Compensation.**

30. The local authority shall make compensation for any damage occasioned to any person by the diversion or closing of a public road and the amount of such compensation shall in the absence of any agreement thereon be determined by arbitration in manner prescribed by the Expropriation of Lands and Arbitration Clauses Proclamation 1902 provided always that in assessing the amount of compensation payable to any person hereunder any benefits or advantage derived or to be derived by such person by reason of such closing or diversion shall be taken into account. No compensation shall be given to any person in respect of any damage unless a claim be sent in within the period of three months mentioned in the last preceding section. No compensation shall be paid by a Local Authority on account of any road closed by reason of the subsidence of such road in consequence of mining operations.

**Hearing of Application by Local Authority.**

31. At the hour and date mentioned in such notice for such hearing the local authority or committee thereof shall consider such application and the objections thereto; provided always that such local authority or committee may adjourn the hearing from time to time as it thinks fit.

**Granting of Application.**

32. If satisfied that the needs of the public will be sufficiently provided for by the proposed diversion and that the applicant has given proper security that he can pay any sums that may become due from him under section *forty* hereof the local authority shall grant the application either simply or subject to such conditions or modifications as it may think fit to impose.

**Appeal by Applicant.**

33. If such application shall not be granted by the local authority within two months after the receipt thereof by the local authority or if it shall be granted subject to such conditions or modifications as the applicant is not willing to accept the applicant may on depositing with the local authority the sum of one hundred pounds as security for costs within fourteen days of the decision by the local authority but not afterwards claim by notice in writing served on the Town Clerk to have such application referred to arbitration and thereupon it shall be so referred as determined in manner provided by the Expropriation of Lands and Arbitration Clauses Proclamation 1902 and the local authority shall refuse or grant such application in accordance with the finding of the arbitrators.

**Carrying out of the Work of Closing any Public Road.**

34. In every case where an application to close any public road or make any diversion therefrom is granted by the local authority either simply or subject to modifications the work of making such diversion or of closing such road shall be effected by the applicant in the manner prescribed by the local authority within a reasonable time or if the applicant and the local authority shall so agree the local authority may itself carry out such work at the applicant's expense.

**Permission to Commence Mining Operations.**

35. As soon as the said diversion has been completed and opened to the public to the satisfaction of the local authority or immediately after the granting of the application hereinbefore mentioned if such local authority shall consider that any existing road will sufficiently meet the needs of the public in place of the road to be closed the local authority shall close such road and give the applicant a written permission to proceed with the mining operations referred to in his application. Any person commencing such operations before receiving such written permission shall be liable to a penalty not exceeding fifty pounds for every day or portion of a day during which such mining operations are carried on.

**Notification by Mine Owners when Dangerous Operations are no longer necessary.**

36. In case of a temporary diversion as soon as the operations which necessitated the closing of any public road have been completed and there is no longer any reason for keeping the said road closed the owner of the mining ground who caused such diversion shall at once give a written intimation thereof to the local authority. Any person delaying the sending of such intimation shall be liable to a penalty not exceeding one pound for every day or portion of a day during which such delay continues.

**Notice Requiring Mine Owner to Restore Closed Road.**

37. Upon receiving such intimation the local authority may give notice to the owner of the mining ground who caused such public road to be diverted requiring him at his own expense to take such steps as may be necessary to make such road secure and to restore it to its former course and condition; provided always that the local authority may at its discretion itself restore the road and recover the expense of doing so from such owner.

**Compliance with Notice to Restore Road.**

38. Upon receiving such notice the aforesaid owner shall immediately take such steps as may be necessary to comply with such notice to the satisfaction of the Government Mining Engineer and local authority and upon the completion of such work shall inform the local authority thereof; provided always that such owner shall in no case be required to put the closed road in a better condition than it was before the diversion.

**Closing of Diverted or New Road.**

39. As soon as the closed road has been restored to the satisfaction of the Government Mining Engineer and local authority and re-opened to traffic the diverted road made to take the place of such restored road may be closed.

**Expenses to be Borne by the Applicant.**

40. In every case the following expenses shall be borne by the person applying under section *twenty-five* of this Ordinance for the diversion of a public road:—

- (a) the cost of all work in connection with the diversion of any public road or restoring any closed road under this Ordinance;
- (b) any compensation that may be payable by the local authority under section *thirty* hereof;
- (c) the cost and expenses of publishing any notices under section *twenty-seven*;
- (d) all the costs incurred by the local authority in respect of any proceedings under sections *thirty* and *thirty-two* of this Ordinance;
- (e) the costs incurred by the local authority in any arbitration proceedings under section *thirty* of this Ordinance and in addition any costs incurred by the claimant which the local authority may be legally obliged to pay.

**Appearance at the Hearing of Application or Appeal.**

41. At the hearing before the local authority and before the officer appointed as aforesaid it shall be lawful for the local authority and any person who has lodged any objection to the application and the applicant to appear either in person or by counsel solicitor or admitted law-agent.

**Penalty.**

42. Any person committing a breach of any of the provisions contained in this Part of the Ordinance shall be liable except where otherwise provided

to a penalty not exceeding fifty pounds and in default of payment thereof to imprisonment for a period not exceeding three months.

*Sections 43 and 44.—Repealed by Ordinance No. 17 of 1928.*

**Only a Double Line of Tram-rails to be Laid on the Road.**

45. No local authority shall permit more than a double line of rails to be laid along the road and trams running upon any part thereof shall be propelled by electric power only; provided always that nothing in this Ordinance contained shall affect any right of any person to construct tramways on the said road acquired before the taking effect of this Ordinance.

*Section 46.—Repealed by Ordinance No. 17 of 1928.*

**Title.**

47. This Ordinance may be cited for all purposes as the Local Authorities Roads Ordinance, 1904.

**No. 17 of 1905.]**

[Promulgated 22nd September, 1905.]

**AN ORDINANCE**

**To Amend the Municipal Statutes of the Colony.**

(Assented to 18th September, 1905.)

(See also Ordinance No. 26 of 1906.)

BE IT ENACTED by the Lieutenant-Governor of The Transvaal with the advice and consent of the Legislative Council thereof as follows:—

**PART I.**

(Repealed by Ordinance No. 9 of 1912 and by Act No. 21 of 1923.)

**PART II.**

**B.—MISCELLANEOUS.**

**Application.**

8. In this part of the Ordinance the term "Council" shall include the Council of a Municipality constituted under the Municipal Corporations Ordinance 1903 the Municipal Corporations Amendment Ordinance 1904 or under any special law.

*Section 9.—Repealed by Ordinance No. 9 of 1912.*

**Power of Council to set apart Bazaars for Asiatics and Transfer of Existing Bazaars.**

10. (1) The Council may with the approval of the Lieutenant-Governor set apart maintain and carry on bazaars or other areas exclusively for occupation by Asiatics and control and supervise the same in accordance with Regulations made from time to time by the Lieutenant-Governor and may lease the land and any buildings or other erections thereon to Asiatics upon such terms and at such rents as may be prescribed from time to time by such Regulations aforesaid.

\**(1)bis.* The Council may alienate and transfer to an Asiatic any land situate in an area set apart as aforesaid, and an Asiatic may acquire the ownership of or any other interest in such land: Provided that both Houses of Parliament have, by resolution, authorized the alienation to Asiatics, of any land situate within that area.

(2) The sites of any bazaars or other places pointed out under the provisions of Law No. 3 of 1885 or any amendment thereof may be transferred by the Lieutenant-Governor to any Council of a Municipality subject to existing leases thereover and every such transfer shall be free of transfer duty stamp duty and registration or other charges and any such bazaar or site so transferred shall be deemed to be a bazaar or area set apart under sub-section (1) of this section.

(3) The provisions of section two of this Ordinance shall *mutatis mutandis* apply for the purpose of enabling a Council to close such bazaars and areas and lay out other land suitable for the same; provided always that in regard to the appointment of arbitrators the Colonial Secretary shall be substituted for the Commissioner for Native Affairs.

*Section 11.—Repealed by Ordinance No. 9 of 1912.*

*Note.*—The Ordinances mentioned in section *eight* of this Ordinance have both been repealed, with the exception of section *fifty-four* of Ordinance No. 53 of 1903. That section reads as follows:—

54. All actions against the council shall be brought within six months of the time when the causes of such actions arose and all such costs charges and expenses as the council shall put to or become chargeable with by

\* Added by section *two* of Act No. 30 of 1936.

reason of the prosecution or defence of any action or under any judgment of the court shall be paid out of the revenue of the council. These provisions are repeated, with the exception of the provision for the payment of costs, etc., in section *one hundred and seventy-two* of the local Government Ordinance, No. 17 of 1939.

*Sections 1 to 6.—Repealed by Ordinance No. 9 of 1912.*

**Provision Validating Agreement Entered into by Council of the Germiston Municipality relative to Municipal Compound on Mining Ground.**

7. Whereas it is expedient that the council of the municipality of Germiston should be enabled to establish and maintain a municipal compound on certain land which is proclaimed under Law No. 15 of 1898 anything in such law notwithstanding and whereas the said council has entered into a notarial agreement with the owners of and the registered holders of certain mining rights on the proclaimed farm Elandsfontein No. 147 Witwatersrand District for the purpose of establishing and maintaining thereon such compound it is hereby declared that the said notarial agreement dated the twenty-sixth day of July 1906 between the said council the Simmer and Jack Proprietary Mines Limited (the owners of the said farm) and the Rand Victoria East Limited (the registered holders of prospecting claims on the portion of the farm the subject of such agreement) the terms of which agreement are fully set forth in the First Schedule hereto shall be deemed to have been lawfully entered into and the same is hereby confirmed as binding on the parties thereto and that notwithstanding anything in Law No. 15 of 1898 contained any municipal compound established and maintained by the said council in terms of the said agreement on the said proclaimed farm shall be deemed to be lawfully established and any buildings now or hereafter erected thereon for the purposes of such compound shall be deemed to be lawfully erected.

**Provision Validating Agreement Entered into by Council of Boksburg Municipality relative to Native Location and Asiatic Bazaar on Proclaimed Land.**

8. Whereas it is expedient that the council of the municipality of Boksburg should be enabled to establish a native location and an Asiatic bazaar upon a portion of the farm "Klippoortje" No. 149 District Heidelberg which is proclaimed under Law No. 15 of 1898 anything in such law notwithstanding it is hereby declared that a notarial agreement dated the thirtieth day of July 1906 between the said Council and the Klippoortje Estates and Tramway Company Limited (the owner of the said farm) and the Hercules Company Limited (the registered holders of the mining rights on the portion of the farm the subject of such agreement) the terms of which agreement are fully set forth in the Second Schedule hereto shall be deemed to have been lawfully entered into between the parties thereto and is hereby confirmed as binding on such parties and that notwithstanding anything in Law No. 15 of 1898 contained such native location and Asiatic bazaar aforesaid shall be deemed to be lawfully established on the said farm "Klippoortje" No. 149 District Heidelberg and any buildings now or hereafter erected thereon for purposes of such location or bazaar shall be deemed to be lawfully erected.

*Section 9.—Repealed by Ordinance No. 9 of 1912.*

**Issue of Long Leases by Council to Occupiers in Asiatic Bazaars and Native Locations.**

10. (1) It shall be lawful for the council to grant leases of plots in any native location or Asiatic bazaar or township established by the council or under its control for any term not exceeding thirty-three years in such form and subject to such conditions as the Lieutenant-Governor may approve.

(2) Such leases shall not require to be executed before a notary public and such leases and cessions thereof shall not require to be registered except in a register to be kept by the council in accordance with such Regulations as the Lieutenant-Governor may prescribe and any such lease and any cession of such lease shall if so registered be valid and binding for all purposes.

Any transfer duty or stamp duty payable on any such lease or cession thereof under any law relating to transfer duty or stamp duty shall be paid in manner prescribed by such Regulations aforesaid. The council shall account to the Colonial Treasurer for any transfer duty or stamp duty payable upon any registration effected under such Regulations aforesaid.

*Sections 11 to 19.—Repealed by Ordinance No. 9 of 1912.*

FIRST SCHEDULE.

AGREEMENT MENTIONED IN SECTION SEVEN.

BE IT HEREBY MADE KNOWN TO ALL WHOM IT MAY CONCERN :—

That on this the twenty-sixth day of July in the Year of Our Lord One thousand Nine hundred and Six (1906) before me Frans Herman van der Willigen Notary Public by lawful authority duly sworn and admitted and in the presence of the subscribing witnesses personally came and appeared :—

Robert George Fricker and William Sebastian Smits of Johannesburg in their capacity as two of the Directors and George Gwinnett Bompas also of Johannesburg in his capacity as the Secretary of the Simmer and Jack Proprietary Mines Limited the said representatives being duly authorized thereto by a Resolution passed by the Board of Directors of the said Company dated 25th July 1906 copy of which resolution certified as such by the said Secretary was this day exhibited to me the Notary and remains filed in my protocol of the first part.

Robert George Fricker and Douglas Christopherson of Johannesburg in their capacity as two of the Directors and Frederick Leslie Brown of Johannesburg aforesaid in his capacity as the Secretary of the Rand Victoria East Limited the said representatives being duly authorized thereto by a resolution passed by the Board of Directors of the said Company dated 25th July 1906 copy of which resolution certified as such by the said Secretary was this day exhibited to me the Notary and remains filed in my protocol of the second part and Charles Brammer Mayor herein representing the Town Council of the Municipality of Germiston of the third part.

And whereas the first mentioned Company is the freehold owner of certain proclaimed farm Elandsfontein No. 147 in the Witwatersrand District.

And whereas the second mentioned Company is the registered owner of certain gold prospecting claims Nos. 1290/4 and portion of 1323/5 situate on the aforesaid proclaimed farm Elandsfontein No. 147.

And whereas the said Companies are willing to grant and the the Town Council of the Germiston Municipality is willing to accept certain rights to a piece of ground situate on the farm Elandsfontein No. 147 in the Witwatersrand District and held under mining title by the second mentioned Company subject to the consent of the Government of the Transvaal Colony being obtained upon certain terms and conditions.

**NOW THEREFORE THESE PRESENTS WITNESS :—**

The Simmer and Jack Company Limited and the Rand Victoria East Limited hereby grant and the Town Council of the Germiston Municipality accepts the right to use the surface of certain piece of ground in extent 274 125 (Two hundred and seventy-four and one hundred and twenty-five) square feet as shown by a figure coloured red on the diagram hereunto annexed for the purpose of establishing and maintaining a Municipal Compound site on the following terms and conditions :—

- (1) The grant is to be for a term of thirty years from the date of signing of these Presents.
- (2) Each of the aforementioned parties contracts and binds himself in so far only as the extent in area of its interest is concerned and as the nature of its interest allows it to do by law and the Council acknowledges that it has full notice of the nature extent and legal incidents of the titles to the land in question of the various parties and accepts this Agreement on the above basis.
- (3) In consideration of such grant a sum of One Hundred Pounds (£100. 0. 0) sterling per annum is to be paid yearly in advance from date of signing of agreement to the said Companies at the Office of the Consolidated Gold Fields of South Africa Limited at Johannesburg. Should the rent be unpaid after 30 days notice in writing having been given this Agreement shall be null and void without any recourse to law.
- (4) The right of mining under the said piece of ground to be so occupied by the said Town Council as had and possessed by the Rand Victoria East Limited under Law No. 15 1898 or any other law relating to the mining for precious minerals shall and is hereby reserved to that Company their successors and assigns.
- (5) No action or proceedings shall be brought or maintained in any Court by the Town Council against the Companies in respect of any inconvenience or damage arising by reason of undermining proximity of tailing heaps or otherwise.
- (6) The Town Council shall at its own cost and expense make provision for proper drainage and sanitary service by septic tanks or otherwise and shall take proper precautions to prevent any pollution of the Victoria Lake (Simmer and Jack Pan) by drainage making its way from the said piece of ground to the said Victoria Lake.
- (7) The Town Council shall erect on the said piece of ground such buildings and erections as may be required and occupy the same immediately on completion thereof. If shall further remove the buildings and erections from the present Compound site and leave the ground occupied by them in reasonably clean and tidy condition.
- (8) At the expiration of the period of this grant or at some termination hereof from any cause the Town Council shall remove all buildings and erections from the said piece of ground within three months from the termination of this Agreement and leave the same in reasonably clean and tidy condition.
- (9) The Companies hereby promise and undertake to give and grant their written consent to and do or perform any other or further act required for the registration of this Contract against their respective Title Deeds of the ground in the Deeds Registry and the office of the Registrar of Mining Rights or wheresoever else required.
- (10) The Town Council shall immediately on completion of this Contract apply for the consent of the Government thereto and it is distinctly agreed that should such consent not be obtained this Contract shall not be binding on any of the contracting parties.
- (11) The Council shall not cede or assign its rights under this Agreement or any part thereof without the consent in writing of the Companies thereto first had and obtained.
- (12) It is hereby expressly stipulated and agreed that the Rand Victoria East Limited notwithstanding anything in Clause 2 hereof set forth shall in no way be bound or obliged to preserve its title to the piece of ground the subject of this Agreement of whatsoever nature or kind such title may be or hereafter may become after termination of the life of its mine.
- (13) All Municipal rates sanitary fees and Municipal taxes of every description which are at present or which may be hereafter levied and imposed upon the piece of ground the subject of this Agreement or on any buildings which may hereafter be erected upon the same shall be borne and paid by the Council.
- (14) It is further stipulated that in the event of the title of this Company to the said piece of ground being in any way jeopardised or imperilled by reason of the existence of the Agreement or by any acts which may be done upon or in respect of the same by the Council or in the event of the Government or any properly qualified official thereof requiring the cancellation of these presents or the discontinuance of the use of the surface for the purposes aforesaid the Company shall have the right forthwith to put an end to and cancel this Agreement and to require the Council to quit and depart from the said piece of ground and to remove all its premises buildings and erections therefrom.
- (15) No Liquor Licenses of any sort whatsoever and no Trading Licenses shall be allowed to be obtained in respect of the area herein referred to and no trading or dealing or selling of liquor or goods will be permitted and the Council undertakes to co-operate in all respects with the Company in order to prevent any infringement of this Clause.
- (16) If any difference or dispute shall arise between the parties to this Agreement as to the true intent and meaning of any of the terms and conditions herein contained or as to any matter or thing arising out of this Agreement such difference or dispute shall immediately on the happening thereof be referred to two arbitrators one of whom shall be appointed by each of the parties hereto and the said arbitrators shall make their award in writing within one (1) month after entering on the reference and such difference or dispute shall otherwise be determined by arbitration in manner provided for by the Arbitration Ordinance 1904.

(17) The costs of this Agreement and all expenses incidental thereto as also the Transfer Duty (if any) shall be borne by the said Town Council.

Thus done and executed at Johannesburg aforesaid on the day month and year first aforesaid in the presence of James David Low and Bernie Malraison who together with the Apperars and me the Notary have duly subscribed to the original hereof now remaining in my Protocol.

Quod Attestor.

(Seal.)

F. H. v. d. WILLIGEN,  
Notary Public.

## SECOND SCHEDULE.

### AGREEMENT MENTIONED IN SECTION EIGHT.

BE IT HEREBY MADE KNOWN :—

That on this 22nd day of August in the year of our Lord One thousand Nine hundred and Six before me Petrus Jacobus Malherbe of Boksburg in the Colony of the Transvaal Notary Public by lawful authority duly admitted and sworn and in the presence of the subscribing witnesses personally came and appeared—

William Inchbold Haley and Henry James Lamb two of the Directors of the Klippoortjie Estates and Tramway Company Limited being duly authorised thereto by Resolution of the Board of Directors of the said Company dated the 22nd day of August 1906 the party of the first part ; secondly came and appeared—

William Dalrymple and Carl Distel in their capacity as Directors and Murdoch Wright MacLachlan, in his capacity as Secretary of the Hercules Company, Limited, being duly authorised thereto by Resolution of the Board of Directors of the Hercules Company Limited dated 22nd day of August 1906 the party of the second part ; and thirdly came and appeared George Constable of Boksburg in his capacity as Mayor of the Municipality of Boksburg being duly authorised thereto by Resolution of the Municipal Council of the Municipality of Boksburg dated 30th day of July 1906 the party of the third part hereinafter referred to as the Council ; the aforesaid three Resolutions having this day been exhibited to me the Notary and now remain filed in my protocol.

AND THESE APPEARERS DECLARED :—

That whereas the said Klippoortjie Estates and Tramway Company Limited are the registered owners of the farm Klippoortjie No. 149 situated in the mining district of Boksburg under and by virtue of Deed of Transfer No. 1899/1903 dated 28th February 1903.

And whereas the said Hercules Company Limited are the registered holders of certain Claims Nos. 799 to 806, 819 to 826, 839 to 846, all inclusive situated on the said farm Klippoortjie ;

And whereas it has been agreed between the said Klippoortjie Estates and Tramway Company Limited the said Hercules Company Limited and the Town Council of Boksburg that subject to the consent and approval of the Government of the Transvaal Colony certain portions of the said farm Klippoortjie shall be reserved and set aside as and formed into a Location for Natives and a Reserve or Bazaar for Asiatics under terms and conditions as hereinafter set forth ;

NOW THEREFORE THESE PRESENTS WITNESS :—

That the said Klippoortjie Estates and Tramway Company Limited and the said Hercules Company Limited declared to grant and convey to the Town Council of Boksburg the right to form locate and establish a Native Location in extent fourteen acres and an Asiatic Reserve or Bazaar in extent eleven acres on the north-eastern corner of the said farm Klippoortjie namely on that portion held by the said Klippoortjie Estates and Tramway Company Limited under Deed of Transfer as aforesaid and on which the claims aforesaid or a part thereof belonging to the Hercules Company Limited are situated the said Location and Bazaar being contiguous to one another forming an area not greater than twenty-five (25) acres and subject to particular definition by legal survey and diagrams intended to be hereafter attached thereto which aforesaid rights shall be subject to the following terms and conditions and shall convey and include the following further rights and privileges, namely :—

1. The rights aforesaid are granted for a period of twenty-one (21) years reckoned from the 22nd day of August 1906 and are granted without payment of any consideration by any of the parties to this Agreement to any one or other of the parties hereto.

2. The said Native Location and Asiatic Bazaar or either of them shall not be contiguous to Mynpacht No. 394.

3. During the continuance of this Agreement and during the continuance of the said Location and Bazaar on the said property the said Hercules Company Limited bind themselves not to conduct any mining operations on nor to interfere with or disturb the surface of the ground reserved as aforesaid in any way nor to exercise such rights as they may but for this Agreement have as claimholders in respect of the surface of such reserved ground but they shall continue to hold enjoy and exercise the mining rights under the said surface.

The said Klippoortjie Estates and Tramway Company Limited bind themselves during the continuance of the said Location and Bazaar not in any way to exercise any of the rights which they may but for this Agreement be entitled to on the said reserved ground but they shall continue to hold enjoy and exercise all the rights and privileges conferred on them by the Gold Law in respect of the mining rights under the said surface.

4. The said reserved ground shall be used solely and exclusively for the purpose of a Native Location and Indian Bazaar as aforesaid and no other and the Town Council shall for that purpose exercise all the powers privileges rights authorities and jurisdictions on the said reserved ground which are conferred on and vested in the said Council or which may at any time hereafter be conferred on or vested in the said Council in every respect as though the said ground belonged to the Council or had been previously specially reserved under the Gold Law or under any other Law of this Colony for the purposes of a Native Location and Indian Bazaar and not in consequence or pursuance of this Agreement.

5. The said Council shall have the right to at any time disestablish the said Native Location and Asiatic Bazaar without giving the said Klippoortjie Estates and Tramway Company Limited or the Hercules Company Limited any notice thereof.

6. On the termination of this Agreement or in the event of the said portion of the farm on which the said Location and Bazaar have been established or any portion thereof be deproclaimed at any time then the Council will cause the said Location and Bazaar or such portion thereof as is situated on such deproclaimed ground to be removed and to leave the ground in reasonably clean and tidy condition. Provided however that the Council shall not be bound to cause the said Location and Bazaar to be removed unless requested to do so in writing by the said Klippoortjie Estates and Tramway Company Limited and in no case shall the Council be obliged to cause such removal until six months after the date of such notice.

7. No action or proceeding shall be brought or maintained in any Court by the Council against either of the said Companies in respect of any inconvenience or damage arising from undermining for *bona fide* mining purposes or in connection with such *bona fide* mining purposes, or from the proximity of tailing heaps.

8. The said Klippoortjie Estates and Tramway Company Limited and Hercules Company Limited contract and bind themselves in so far only as the extent of their respective interest in the area is concerned, and as the nature of their respective interest allows them to do by Law, and the Council acknowledges that it has full notice of the nature extent and legal incidents of the titles to the land in question of the various parties and accepts the agreement on the above basis. It is further agreed that the rights granted



in terms of these presents by the said Companies have been so granted in contemplation of certain "Draft Ordinance to further amend the Law relating to Municipal Corporations" becoming Law—in terms of which Ordinance it is provided *inter alia* that these presents shall be deemed to have been lawfully entered into.

9. No Liquor Licence of any sort whatsoever shall be allowed to be obtained in respect of the area herein referred to and no trading or dealing in or selling of liquor will be permitted, and the Council undertakes to co-operate in all respects with the Companies to prevent any infringement of this clause.

10. If any difference or dispute shall arise between the parties to this Agreement as to the true intent and meaning of any of the terms and conditions herein contained or as to any matter or thing arising out of this Agreement such difference or dispute shall immediately on the happening thereof be referred to arbitration in terms of Arbitration Ordinance of 1904.

11. The costs of this Agreement and all expenses incidental thereto as also the Transfer Duty (if any) shall be borne by the said Town Council.

12. It is specially agreed between the parties that notwithstanding anything to the contrary elsewhere in these presents contained or implied the Municipality shall so divert or cause to be diverted the main road from Elsburg to Boksburg that no portion of the said road will be within one hundred and fifty yards of any portion of the said Location and Bazaar. The Municipality undertakes to effect such diversion within six months after the establishment of such Location or Bazaar.

13. Where mention is made in this Agreement of the Klippoortje Estates and Tramway Company Limited and the Hercules Company Limited it shall include their successors and assigns.

Thus done and passed at Johannesburg on the date aforesaid in the presence of Edward Davies Alexander Smith Alec. George Brook Ernest Maytham Frans Herman van der Willigen and Alexander Anderson as witnesses who together with the Appearers and me the Notary have subscribed the original hereof now remaining in my protocol.

Quod Attestor.  
P. J. MALHERBE,  
Notary Public.

Act No. 33 of 1907.]

[Took effect 26th August, 1907.]

### AN ACT

#### To Amend the Provisions of the Proclamation of Townships Ordinance 1905.

(See also the Townships Amendment Act No. 34 of 1908.)

(Assented to 20th August, 1907.)

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

*Sections 1 to 10.—Repealed by Ordinance No. 11 of 1931.*

#### Condition of Grant of Title or Lease.

11. It shall be one of the conditions of the grant of any application to be established a township that the owner his heirs successors or assigns shall not grant a title to any lot in such township other than a freehold title or a lease for a period not exceeding five years without the right of renewal and no title to any such lot other than a freehold title or such lease as aforesaid shall be capable of being registered in any Registration Office\*.

*Section 12.—Repealed by Ordinance No. 11 of 1931.*

#### Exemption from Transfer Duty Stamp Duty and Registration Fees of Transfers to Governor or Municipal Council.

13. Notwithstanding anything in the law relating to transfer duty stamp duty deeds registration or survey no transfer duty stamp duty or registration fees shall be payable in respect of such transfers as are made to the Governor or to a municipal council in accordance with section *eight* and no stamp duty shall be payable in respect of the diagrams in such section mentioned.

*Section 14.—Repealed by Ordinance No. 11 of 1931.*

#### Title and Date of Taking Effect.

15. This Act may be cited for all purposes as the Townships Act 1907 and shall take effect from the date of its first publications as an Act in the *Gazette*.\*

Act No. 34 of 1908.]

[See section 73 as to date of operation.]

### AN ACT

#### To Amend the Townships Act 1907, to provide for the Establishment of New Townships on Proclaimed Land and in Municipalities, and to Effect Conversion of Title in certain Township Lots to Freehold.

(Assented to 22nd August, 1908.)

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

#### PRELIMINARY.

#### Interpretation of Terms.

1. (1) In this Act unless inconsistent with the context or with the principal law;

\* See, however, section 79 (19) of the Local Government Ordinance No. 17 of 1939.

"commencement of this Act" shall mean the date of the coming into operation of this Act;

"Council" shall mean the Council of the Municipality within which any township is situate;

"Crown Land" shall have the same meaning as is assigned to that expression in the Crown Land Disposal Ordinance, 1903;

"Mining Commissioner" shall mean in relation to any township the Mining Commissioner for the mining district in which such township is situate;

"mining district" shall have the same meaning as is assigned to it in the Precious and Base Metals Act 1903 and, when used in relation to any township or a stand or lot in a township, shall mean the mining district in which the same is situate;

"Municipality" shall mean, in relation to a township, the Municipality within which such township is situate;

"principal law" shall mean the Townships Act, 1907;

"proclaimed land" shall have the same meaning as is assigned to that term in the Precious and Base Metals Act 1903, or any amendment thereof; and shall also include land proclaimed an alluvial digging under the Precious Stones Ordinance 1903 or any amendment thereof;

"Schedule" shall mean Schedule to this Act;

"stand" shall include a portion of a stand held under separate title;

"stand township" shall mean any township mentioned in the First Schedule to this Act;

"*voorkeurrecht* title" shall include any transfer of such title;

the expression "Law No. 15 of 1898" shall include any amendment thereof expressed or implied by the Registration of Mining Rights Proclamation 1902 Ordinance No. 6 of 1902 and Ordinance No. 6 of 1903.

(2) Save as may in this Act otherwise appear from the context, any expression defined in and for the purposes of the principal law and used also in this Act, shall, when so used, bear the same meaning as is assigned to it in the principal law.

(3) "Deeds Office" and "Registrar of Deeds" in the principal law except in section three thereof shall be construed for the purposes of this Act as meaning respectively the registration office in which titles affecting land in townships are registered under this Act and the registering officer under this Act.

*Section 2.—Repealed by Ordinance No. 11 of 1931.*

#### **Certain Provisions of Law No. 15 of 1898 as to Stands in Stand Townships to Remain in Force for certain Purposes.**

3. (1) The provisions of Law No. 15 of 1898 which were in force on the day immediately preceding the commencement of this Act, save in so far as they are expressly amended, with regard to stands in stand townships, shall notwithstanding the repeal of such law be deemed to remain in force in regard to every such stand until a certificate of freehold title or deed of grant is issued in respect thereof under Part II of Chapter III of this Act, and the administration of and control over every such stand shall, until the issue of the said certificate, continue to be exercised by the Mining Commissioner or other officer in manner provided by the said law.

(2) Nothing in this section contained shall subject the Government of this Colony to any provision of the said law with regard to the disposal of stands in stand townships on Crown Land if the *voorkeurrecht* or leasehold title thereto has not been sold or disposed of, or has lapsed to the Government.

(3) Nothing in this section contained shall prevent the Governor from disposing of any stand in a stand township under the provisions of the Crown Land Disposal Ordinance 1903 or any amendment thereof, and where prior to the commencement of this Act any such stand has been so disposed of, the grant of such stand shall be deemed to be valid for all purposes if registered as is by this Act or any other law provided.

(4) Where prior to the commencement of this Act a stand or the use of a stand in a Government township has been granted to any religious, educational, charitable, or benevolent body, subject to any conditions, the Governor may issue to such body a deed of grant of

#### **Validation of Existing Townships and Registration of Lots and Stands therein.**

\*4. (1) Notwithstanding anything to the contrary in any law every township or sub-division of land into lots within fields or public diggings proclaimed under Law No. 15 of 1898 or any prior law relating to precious metals, shall be deemed to be a lawfully established township if—

(a) the laying out thereof was effected by the Government; or

(b) a general plan of such a township or sub-division of land into lots has been confirmed or approved by the Surveyor-General; or

(c) transfers or leases, transfers or cessions of leases or any other

\* As substituted by section one of Act No. 30 of 1909.

documents proper for registration under any laws or regulations heretofore in force have been registered since the sixth day of June 1902, whether such registration has taken place in the Deeds Office or the Registration of Mining Rights Office or the Offices of the District Registrars or Mining Commissioners.

(2) Notwithstanding any law or practice heretofore in force or prevailing, every registration of any document described in paragraph (c) of sub-section (1) shall be deemed to be as lawful and valid as if the township or sub-division of land into lots had been specifically approved by the Governor or by the Government of the South African Republic.

As substituted by section *one* of Act No. 30 of 1909.

## CHAPTER I.

ESTABLISHMENT OF NEW TOWNSHIPS ON PUBLIC DIGGINGS AND IN MUNICIPALITIES.

### Establishment of Townships on Proclaimed Land.

\*5. (1) Notwithstanding anything in any other law contained, the Governor-General may, whenever he considers it expedient to do so, permit a township to be established on any proclaimed land or on land held under any form of mining title.

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

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

(4) Where the proclaimed land, upon which the Governor may cause a township to be established, is private land—

(a) the Mining Commissioner shall consult the owner thereof (if possible) and if such land be held under mining title the holder thereof also (if possible);

(b) thereupon the Mining Commissioner shall give the said owner written notice requiring him to make application in respect of such area as may be specified by the Mining Commissioner under section *five* of the principal law, which law shall *mutatis mutandis* apply. If the said owner fail within three months after receiving such notice to make such application, or, having made such application, fails to carry out the requirements of sections *five*, *seven* and *eight* of the principal law, the Mining Commissioner shall, after the expiry of the said period, make such application and carry out such requirements;

(c) if such township has been declared an approved township under section *seven* of the principal law, the owner may be required to sell any or all of the lots therein in manner and subject to conditions approved by the Governor; and if such owner fails so to do, the Governor may cause the freehold interest in such lots to be sold at public auction by the Mining Commissioner; whereupon the purchase price of every lot sold at such auction shall be paid to the owner after deducting the costs of survey, sale, and registration which have necessarily been incurred by the Mining Commissioner prior to such sale.

(5) The freehold interest in any lots in such township shall not include the right to minerals, mineral products, or precious stones thereon or thereunder.

*Sub-sections (1) to (3) as substituted by section forty-eight of Act No. 36 of 1934.*

*Sections 6 and 7.—Repealed by Ordinance No. 11 of 1931.*

## CHAPTER II.

CONVERSION OF *Voorkeurrecht* AND LEASEHOLD TITLE TO FREEHOLD TITLE.

### PART I.

#### *General Conversion Provisions.*

### Interpretation of Terms and Expressions Used in this Chapter and Chapter III.

8. In this Chapter and in Chapter III the following expressions shall have the meanings herein respectively assigned to them:—

“Government township” shall mean a township situated on Crown Land and laid out under the provisions of Law No. 15 of 1898, or of any

\* Sub-sections (1) to (3) as substituted by section *forty-eight* of Act No. 36 of 1934.

prior law, by the authority and on behalf of the Governor or of the Government of the late South African Republic;

“private leasehold township” shall mean a township—

- (a) in which lots have been sold in leasehold; and
- (b) in respect of which the Government receives no share of stand license moneys; and
- (c) which is situate on land whereof the freehold is vested in some person other than the Crown or on Crown Land held under lease by such person; and
- (d) which has been laid out under contract or agreement with the Government or with the Government of the late South African Republic, or the existence whereof has been recognised by the Government by the registration after the sixth day of June, 1902, of leases and transfers of leases of lots therein;

“semi-Government township” shall mean any such township as is defined as a private leasehold township, laid out under the provisions of Law No. 15 of 1898 or of any prior law, but in which the Government receives or has been receiving some share or interest in the stand license moneys or some fixed payment from the township owner under an agreement with him;

*Section two of Act No. 30 of 1909, provides:—*

**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.

“private freehold township” shall mean a township on land whereof the freehold is vested in some person other than the Crown, situate in the mining District of Johannesburg, or of Krugersdorp or of Boksburg, if lots therein have been sold in freehold only;

“township owner” shall mean—

(a) any person other than the Crown who is the owner of the freehold of the land on which a township is situate and who has sold or leased lots therein; or

(b) any person who, not being the owner of such freehold, has acquired directly or indirectly from the owner of the freehold, the right to issue leases of stands or lots in such township and who has sold or leased lots therein;

“freehold owner” shall mean the owner of the freehold of any land (other than Crown Land) upon which a township is situated;

“registered holder” shall mean any person for the time being registered under the provisions of Law No. 15 of 1898, as the owner of any stand or lot in a township, or registered under a lease granted by a township owner; and shall include any person who has entered into an agreement with the township owner for the purchase of the lease of any stand or lot;

“registered owner” shall mean a registered holder who has acquired under this Act the freehold of the stand or lot registered in his name;

“purchaser” shall mean any person—

(a) who either before or after the commencement of this Act has agreed with a township owner for the purchase of the freehold of any stand or lot in either a semi-Government township, a private leasehold township, or a private freehold township without having previously purchased a leasehold interest in such stand or lot; and

(b) who has not before the commencement of this Act received a transfer of such stand or lot in freehold;

“registering officer” shall, with respect to townships and stands or lots therein situate in the Mining Districts of Johannesburg, Krugersdorp or Boksburg, mean the officer appointed under Chapter III Part I of this Act to register the freehold title to all stands or lots in townships situate within the said mining districts; and, with regard to townships situate elsewhere in this Colony, shall mean the Registrar of Deeds;

“value” as applied to a stand or lot shall mean—

(a) the value of such stand or lot (exclusive of any buildings thereon) fixed as at the thirtieth day of June 1908 by the valuation roll of the Municipality in which it is situate; or

(b) if no such valuation roll is in existence the valuation of stands or lots exclusive of buildings which the Governor has caused or may after the commencement of this Act cause to be made;

“diagram” and “general plan” shall in each case mean a “diagram” or (as the case may be) a “general plan” prepared by a person lawfully

admitted to practise as a land surveyor in this Colony, and approved by the Surveyor-General without publication;

“confirmed diagram” and “confirmed general plan” shall mean a diagram or a general plan (as the case may be) confirmed by the Surveyor-General after notice of confirmation has been published for four consecutive weeks in the *Gazette*.

*Government Townships and semi-Government Townships.*

**Conditions on which Freehold Title may be Obtained in Existing Government Townships.**

9. (1) From and after the commencement of this Act the stand license moneys payable on any stand in a Government township before the commencement of the Act shall continue to be payable, but the registered holder shall have the right subject to the provisions of this Act to obtain a freehold title thereto in manner provided by this Act either—

(a) on payment, of the sum calculated as shown in Table “A” of the Second Schedule to this Act; or,

(b) after having paid stand license moneys accruing after the commencement of this Act in respect of such stand for the number of months shown in Table “B” of the said Schedule.

(2) if such stand license moneys are paid for a part of the time fixed by Table “B” of the Second Schedule, the registered holder shall at any time, be entitled to pay the balance of the sum as fixed by Table “A” after deducting the sums paid under Table “B”.

(3) If stand license moneys are not paid when due upon any such stand the provisions of article *one hundred and four* of Law No. 15 of 1898, shall apply whether such stand is or is not a specially registered stand under the said law, and notwithstanding the repeal of the said law.

(4) Any stand sold under the provisions of sub-section (3) shall be sold in freehold and the balance of the proceeds of sale shall, after deducting the arrear and extra stand license moneys and the sums payable and remaining unpaid under this section together with fines and expenses, be paid to the last registered holder of the stand unless there be a bond thereon: in such case so much of the balance shall be paid to the bond-holder as may appear to be due to him.

**Conditions under which Payment of Government's Share of Stand Licence Money may be Liquidated in Semi-Government Townships.**

10. (1) Notwithstanding anything in any lease or other contract contained, the registered holder of a stand in a semi-Government township shall be required to pay in respect of the share of the stand license moneys on the stand which may become due to the Government after the commencement of this Act, such amount only as is provided by sub-section (2), and the amount payable to the Government by the township owner, or the amount which the Government is entitled to retain in cases where stand license moneys are collected by the Government, shall be diminished accordingly.

(2) The payment required under this section shall be as set forth in the Second Schedule that is to say:—

(a) either the sum calculated as shown in Table “A” of such Schedule; or

(b) stand license moneys for the number of months shown in Table “B” of such Schedule.

**Remission of Payments due to Government in certain Cases.**

11. In semi-Government townships, where the Government receives a fixed annual payment and not a specified portion of the stand license moneys, the Government may remit such payment if the township owner offers to grant freehold on terms approved by the Governor.

**Conditions for Registered Holder in Semi-Government Township obtaining Freehold Title.**

12. (1) The registered holder of any stand in a semi-Government township may agree with the township owner for the purchase of the freehold of such stand in the manner and subject to the conditions provided by section *fifteen* or section *sixteen* as if such township owner were the owner of a private leasehold township, and, on payment of the sum agreed upon with the township owner together with the sum fixed in section *ten*, the registered holder shall receive a freehold title to the land comprised in the said stand in the manner and subject to the conditions hereinafter provided.

(2) If the stand license moneys in such semi-Government townships are payable to the Government, the purchase price shall also be payable to the Government, and the Registering Officer shall issue receipts for all payments made by the registered holder.

**Creation of Semi-Government Township at Fairview and Extension of Semi-Government Township at Roodepoort.**

13. (1) That portion of the farm Doornfontein No. 140, District Witwatersrand, commonly known as "Fairview" and "Johannesburg Extension", otherwise "Fawcus Township", bounded on the north by the township of Troyeville, on the east by the township of Malvern, and on the south by the township of Jeppestown, and being the land leased to one George Edward Fawcus by Frederick Jacobus Bezuidenhout senior by deed of lease dated the eighth day of March 1889, registered under No. 242 of 1903, and consisting of twenty-three morgen five hundred and eighteen square roods according to diagram S.G. No. 1740/03, framed by Surveyor E. W. Ferguson in July 1896 shall, for the purposes of this Act be deemed to be a semi-Government township under the name of "Fairview" and one Margaret Henrietta Fawcus, the assignee of such lease from the said George Edward Fawcus, shall, for the purposes of this Act, be deemed to be the township owner of the said township of Fairview.

(2) The portions of the farm Roodepoort No. 43, District Witwatersrand, which are included within the boundaries of the township of Roodepoort and held as stands under article *ninety-two* of Law No. 15 of 1898 shall, for the purposes of this Act, be deemed a part of the said township of Roodepoort.

(3) Until conversion into freehold of any stand to be incorporated into a semi-Government township under this section, has taken place, nothing in this section contained shall affect the title of such stand or the conditions upon which such stand is held.

**Application of Payments to Government.**

14. All payments made in respect of stands in a Government township, or the Government's share of stand license moneys in a semi-Government township, if the township be situate within a Municipality, shall be paid into a special account, and shall be set aside by the Colonial Treasurer for the Council of such Municipality for the purpose of such capital expenditure by such Council as the Governor may approve; provided that to moneys so set aside for the Council of the Municipality of Johannesburg there shall be added any sums by way of deposits forfeited under section *twenty-nine*; and provided further that, from the moneys so set aside for such Council, the Colonial Treasurer shall cause to be deducted the expenses of the survey of Government townships on the Government farm Randjeslaagte No. 138 and on the Government portions of the farm Braamfontein No. 127, District Witwatersrand, together with the expenses of the Arbitration Board appointed under section *twenty-eight*; that is to say, the remuneration paid to the members of such Board and other expenses incidental to the exercise by such Board of the duties assigned to it by the said section.

*Private Leasehold Townships.*

**Mode of Obtaining Freehold in Private Leasehold Townships.**

15. (1) Where a registered holder of a lot in any private leasehold township whereof the township owner is the owner of the unencumbered freehold, agrees or has agreed with the township owner for the purchase of the freehold of such lot and makes, or has heretofore made, payment on account thereof, the township owner shall lodge with the registering officer a duplicate copy of such agreement signed by the parties, unless the said agreement is embodied in the deed of lease registered in the office of the registering officer.

(2) The township owner shall also furnish the registered holder with a receipt in duplicate in the form set forth in the Third Schedule for all payments heretofore or hereafter made in respect of such agreement.

(3) It shall thereupon be the duty of the registered holder to lodge one copy of such receipt with the registering officer who shall note the payment in a suitable register. Any payment so made and duly noted by the registering officer shall be binding on any subsequent purchaser of the township or any creditor of the township owner.

(4) Upon the lodging of a receipt for the payment in full of the purchase price and upon the surrender by the registered holder of the leases of the said lot, the registered holder shall have the right to obtain a freehold title to the said lot in the manner and subject to the conditions by Chapter III provided. It shall also be the duty of the township owner to lodge his copy of the lease with the registering officer for cancellation.

**Mode of Obtaining Freehold by Agreement, in case of Private Leasehold Townships where the Township is not the Owner of the Unencumbered Freehold.**

16. Where a registered holder of a lot in a leasehold township of which the township owner is not the freehold owner, or in which there exists a bond or other encumbrance over or on the land comprised in the township, has entered into an agreement with the township owner for the purchase of the freehold of a lot and the township owner has also entered into an agreement with the

freehold owner or the mortgagee or other encumbrancer (if any), as the case may be, by which the parties thereto agree that freehold of lots in the township may be granted free of all encumbrances or subject to such encumbrances as the said parties may agree it shall be the duty of the township owner to lodge notarially certified copies of the said agreements with the registering officer. The said agreements shall specify a person to whom the payments due from the registered holder are to be made and such person may be the registering officer, and thereupon all payments made by the registered holder to such person shall be binding on all the said parties and their creditors and successors in title. The provisions of sub-sections (2), (3) and (4) of the last preceding section shall apply to lots falling within the provisions of this section.

**Collection of License Money or Rent by Registering Officer on behalf of Township Owner.**

17. (1) It shall be lawful at any time after the commencement of this Act for any township owner who has offered freehold to registered holders upon terms approved by the Governor, to make written application to the registering officer requesting him to collect, on behalf of the applicant, all stand license moneys or rent due or to become due in respect of stands or lots in such township and all instalments of purchase price due or to become due in respect of the purchase of the freehold of any such stands or lots, and, upon such application, and upon being furnished with all such leases and registers of leases or other title and all books of account showing the sums payable upon each stand or lot in the township as the registering officer may require, such registering officer shall on behalf of such township owner collect such stand license moneys, rents or instalments and shall transmit to him the amounts collected either quarterly or half-yearly at the option of such township owner and without making any charge therefor.

(2) If any such stand license moneys, rents, or instalments in respect of any stand are in arrear for a period of six months or for such longer period fixed by any lease or other agreement as the period at the expiry of which the lease may be cancelled owing to non-payment of license moneys the registering officer shall deal with such stand in accordance with the provisions of sub-section (3) of section *nine*; provided that, one month before so dealing with such stand, the registering officer shall serve written notice on the registered holder or purchaser in default, and on the mortgagee of such stand of his intention so to do.

(3) The balance of the proceeds of such sale after deducting arrears of rent or stand license moneys, the costs of sale incurred by the registering officer together with any unpaid purchase money and interest thereon (which term shall be deemed to include the amount for which freehold is obtainable under any agreement filed under this Act or under any statement mentioned in section *nineteen*) shall be paid to the registered holder who has made default, unless there exists a bond upon the stand or lot in which case so much of the balance shall be paid to the bondholder or bondholders as appears to be due to him or them.

**Procedure where License Moneys are in Arrear.**

18. (1) Whenever the township owner has not availed himself of the provisions of sub-section (1) of the last preceding section, in the case of a private leasehold township or semi-Government township the owner whereof offers freehold to the registered holder upon terms approved by the Governor, then, if the stand license moneys, monthly rentals or instalments of purchase price together with interest (if any) thereon in respect of a stand in any such township, are in arrear for six months, or for such longer period as is mentioned in sub-section (2) of the last preceding section, the township owner may lodge with the registering officer a solemn declaration, in the form in the Fourth Schedule, stating that the stand license moneys, monthly rentals, or instalments (as the case may be), are in arrear for the said period.

(2) The provisions of sub-sections (2) and (3) of the last preceding section shall *mutatis mutandis* apply as soon as the township owner has lodged such declaration.

**Conditions of Obtaining Benefit of Section seventeen or eighteen.**

19. Any township owner who desires to avail himself of the provisions of either of the last two sections, shall lodge with the registering officer a statement of the terms upon which registered holders may obtain freehold. If such terms are approved by the Governor, a notice shall be published by the registering officer in the *Gazette* and in a newspaper circulating in the locality, and thereafter any registered holder in the said township may obtain freehold upon the terms contained in the said statement, without entering into any other or further agreement; provided that nothing in this section contained shall affect any agreement entered into before the commencement of this Act between the township owner and the registered holder, or be construed as

preventing the township owner and registered holder from entering into any agreement for the purchase or sale of freehold upon such other terms as the parties to the agreement may see fit.

*General Conversion Provisions.*

**Prohibition of Sale of Stands except in Freehold.**

20. (1) After the commencement of this Act no stands in semi-Government townships or lots in private freehold or leasehold townships shall be sold by a township owner except in freehold; provided that nothing in this section contained shall be deemed to prevent the registered holder, registered owner or purchaser (as the case may be) of a stand or lot in any such township who is not the township owner from leasing or transferring the lease of any stand or lot for such period as such holder, owner, or purchaser may see fit; provided further that this section shall not apply in respect of stands or lots in a semi-Government township or private leasehold township if the township owner was not on the fifteenth day of July 1908 the owner of the unencumbered freehold and has not entered into such agreements as are mentioned in section *sixteen* or other like agreements by which the township owner has at the said date been enabled to sell such stands in freehold.

(2) In semi-Government townships no agreement heretofore made between the township owner and the Government shall be deemed to prevent the township owner from selling in freehold stands therein if the leasehold interest therein has not been disposed of.

\* (3) Nothing in this section contained shall be construed as prohibiting the registration of the lease of any stand or lot a contract for which lease either written or verbal has been entered into before the commencement of this Act and particulars of which are lodged with the registering officer within one month after such commencement or within such further period as the registering officer may allow, not being a longer period than one year after the thirtieth day of June, 1909.

**Receipts where Payments made to Mining Commissioner.**

21. In the case of townships where payments of the sums provided by this Act have been made to a Mining Commissioner who is not a registering officer for the district, receipts in duplicate shall be issued by such Mining Commissioner, and it shall be the duty of the registered holder to lodge one copy thereof with the registering officer.

**PART II.**

**SPECIAL PROVISIONS APPLICABLE TO CERTAIN AREAS IN THE MINING DISTRICT OF JOHANNESBURG.**

**Application of Part II of this Chapter and Division of such Part.**

22. (1) Part II of this Chapter shall be applicable to the several portions of the mining district of Johannesburg therein specially described and to those portions exclusively.

(2) Such Part is arranged in the following divisions according to the provisions made applicable to each such portion of the said mining districts, that is to say:—

- (A) Surveys of Government townships on the Government farm Randjeslaagte and the Government portions of the farm Braamfontein;
- (B) Township of Burgersdorp;
- (C) Township of Vrededorp;
- (D) Prospect Township;
- (E) Township of Newtown.

*(A) Surveys.*

**Framing and Lodging of General Plans in respect of Townships on Randjeslaagte and Government Portions of Braamfontein.**

23. (1) As soon as may be after the commencement of this Act the Surveyor-General shall cause surveys to be made of every Government township on the Government farm Randjeslaagte No. 138 and the Government portions of the farm Braamfontein No. 127 District Witwatersrand in respect of which no approved or confirmed general plan exists, and shall cause a general plan of every such township to be lodged with the registering officer.

(2) For such purpose the Surveyor-General shall give not less than fourteen days' notice in the *Gazette* and in a newspaper circulating in the mining district, of the date on which and hour at which the survey of any such township will be commenced, the section of any part of such township where the survey will be commenced, and the name of the person (being a duly admitted land surveyor) who will commence the survey.

(3) The Surveyor-General shall further cause not less than eight days written notice to be given to every registered holder of a stand or lot in such

\* As amended by section *three* of Act No. 30 of 1909.



township of the date and hour at which the said land surveyor will attend to point out the boundaries of his stand or lot and such land surveyor shall do all things necessary and possible to point out to each such holder the boundaries of his stand or lot.

(4) For the purposes of a survey under this section and the succeeding sections, such land surveyor may at all reasonable hours enter upon any land or buildings and do all things necessary therein or thereon for the purpose of carrying out his duties under the said sections.

#### **Manner of Fixing and Marking Boundaries of Stands and Lots.**

24. (1) In the case of unoccupied blocks of stands or lots the surveyor shall fix and mark the boundaries thereof as nearly as may be in accordance with the existing plan of the township; and in the event of the survey disclosing a surplus or deficiency of land as compared with the existing plan, such surplus or deficiency (as the case may be) shall be allocated in equal proportions to all the stands or lots.

(2) In the case of stands or lots on which exist at the commencement of this Act substantial buildings, the walls whereof at such commencement were by repute the boundaries of the stands or lots, the surveyor shall fix the boundaries between the stands or lots accordingly; provided that, if any such building encroaches more than six inches upon an adjoining stand or lot, compensation shall be paid to the registered holder thereof, the amount of such compensation, if not mutually agreed upon by the registered holders concerned, being determined by the Arbitration Board constituted under section *twenty-eight*; provided further that if any such building encroaches upon a public street, square, open space, or side-walk, the Council of the Municipality of Johannesburg may make application to the said Board for an order for the removal of the encroachment or portion thereof and the said Board shall make such order thereon as to it may seem just, except that it shall in no case order compensation to be paid to the Council in respect of any such encroachment.

#### **Boundaries Fixed by Surveyor to be deemed True Boundaries unless Appeal Lodged to Arbitration Board.**

25. (1) After the provisions of section *twenty-three* have been complied with, the surveyor shall, where possible, demarcate all boundaries of a stand or lot fixed by him as aforesaid and thereupon such boundaries shall be true boundaries, for the purposes of this Chapter, of such stand or lot, unless the registered holder thereof after its boundaries have been pointed out as aforesaid shall within twenty-one days lodge with the surveyor and serve upon the registered holder of any adjoining stand or lot a notice of appeal to the said Arbitration Board.

(2) Upon receipt of such notice the surveyor shall forthwith transmit the same to the said Arbitration Board.

#### **Agreement between Holders of Adjoining Stands or Lots as to Boundaries thereof.**

26. (1) The registered holders of two or more adjoining stands or lots may agree in writing as to the situation of the boundaries thereof.

(2) Any such agreement may be lodged at the office of the Surveyor-General who, if satisfied that the agreement has been executed by or on behalf of the parties between whom it purports to have been made, and that the agreement purports to determine the boundaries of adjoining stands so as to correspond as nearly as possible to the boundaries demarcated by the surveyor under the last preceding section, shall file the same in his office and thereupon the boundaries so agreed upon shall be deemed to be the true boundaries for the purposes of this Chapter.

(3) The Surveyor-General shall transmit a copy of any such agreement which has under sub-section (2) been lodged at his office to the surveyor charged with the fixing of the boundaries of such stands or lots.

#### **Diagram to be Lodged and to be Indisputable when Published by the Surveyor-General for Confirmation.**

27. (1) As soon as possible after any appeal disputing the accuracy of the boundaries of any stand or lot demarcated as aforesaid has been determined by the said Board, or if there be no such appeal, as soon as possible after the expiry of the period prescribed by section *twenty-five*, the surveyor shall lodge at the Surveyor-General's office a general plan of the township showing the boundaries of each stand or lot therein.

(2) After confirmation of such general plan by the Surveyor-General the same shall be indisputable and the boundaries shown thereon shall be the true boundaries of any stand or lot represented on the general plan.

#### **Constitution Powers and Jurisdiction of Arbitration Board.**

28. (1) The Governor may, from time to time, whenever it may be necessary

for the purposes of this Act, appoint an Arbitration Board consisting of three persons one of whom shall be an advocate of the Supreme Court and chairman of the Board and at least one of the remaining members shall be a duly admitted land surveyor.

(2) The said Board shall have jurisdiction to hear and determine the amount of compensation payable under section *twenty-four* in respect of any encroachment of substantial buildings upon an adjoining stand or lot.

(3) The said Board shall further have jurisdiction to hear and determine any appeal of which notice has been given under section *twenty-five*.

(4) The said Board shall for the purpose of exercising its jurisdiction have all the powers, jurisdiction, and privileges mentioned in the Commissions Powers Ordinance 1902 as if it were such Commission as is mentioned in section five thereof.

(5) Every decision of the said Board shall be final and conclusive of the matter in dispute; provided that any award of compensation made by it may, upon motion by any party after due notice to the other parties, be made a rule of Court and enforced in the same manner as a judgment or order to the same effect of the Supreme Court is enforceable.

(6) A copy of every decision of the said Board as to boundaries shall be lodged with the Surveyor-General as soon as the same is made.

#### **Procedure before the Board.**

29. (1) Any person having an interest in any matter which may be heard by the Board may appear before it in person or by any agent nominated by him in writing.

(2) No such claim for compensation as is mentioned in section *twenty-four* and no such appeal as is mentioned in section *twenty-five* shall be entertained by the Board unless there be deposited simultaneously with the claim or notice of appeal the sum of twenty-five pounds.

(3) If the claim or appeal be sustained, the deposit shall be returned to the appellant.

(4) If the claim or appeal be dismissed, the Board may order that so much of the deposit be paid to any successful respondent as will reimburse him for any reasonable expenditure to which he may have been put, in appearing before it on the claim or appeal, and the remainder (if any) refunded to the claimant or appellant; provided that, in the event of the claim or appeal being held by the Board to be frivolous, it may order any portion of the deposit which remains, after reimbursing the respondent as aforesaid, to be forfeited to the Treasury. Any such forfeited deposit shall be applied by the Colonial Treasurer in manner provided by section *fourteen*.

#### **Surveyed Area of Stand or Lot to be the Area on which Title is Granted.**

30. Upon survey under the provisions of this part of this Chapter, the area disclosed by such survey of any stand or lot and marked or indicated as the area of such stand or lot on such confirmed general plan aforesaid shall be the area in respect of which a certificate of freehold title may be granted notwithstanding that such area does not correspond with the area in respect of which the registered holder held his *voorkeurrecht* or leasehold title to such stand or lot.

#### *(B) Township of Burgersdorp.*

##### **Terms of Freehold Title in Township of Burgersdorp.**

31. A registered holder of stands in the township of Burgersdorp held under the same conditions as those upon which stands in the township of Vrededorp were held (being the conditions contained in Executive Council Resolutions, Article No. 709, dated the thirteenth day of December 1893; Article 137 dated the twentieth day of March 1894 and Article 180, dated the third day of March 1896) shall in addition to the amount payable under section *nine* pay for freehold title an amount determined as follows:—The registered holder of a stand of a value not exceeding two hundred pounds shall pay ten pounds. The registered holder of a stand of a value not exceeding three hundred pounds shall pay fifteen pounds and the registered holder of a stand of a value exceeding three hundred pounds shall pay twenty pounds.

Such sums shall be payable in monthly instalments of not less than ten shillings each, payable in advance on the first day of each month after the commencement of this Act, and each instalment shall for all purposes be deemed to be a portion of the stand license moneys payable in respect of the stand within the meaning of Law No. 15 of 1898. \*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.

\* As amended by section *four* of Act No. 30 of 1909.

**Valuation of certain Stands in Burgersdorp.**

32. The registering officer shall cause a valuation to be made by a sworn appraiser of stands numbered 80 and 87 and stands numbered from 1137 to 1150 inclusive in the said township of Burgersdorp and shall give written notice to the occupant of each stand who has been in occupation not less than five years, of the sum at which the stand occupied by him is valued. Such occupant shall thereupon have the right at any time within three months thereafter to enter into an agreement to purchase the same. The purchase price shall be payable in not more than one hundred and twenty equal monthly instalments without interest. The said agreement shall be in the form set forth in the Fifth Schedule hereto.

*Section five of Act No. 30 of 1909 provides:*

**Amendment of Section thirty-two of Act No. 34 of 1908.**

5. (1) The registering officer mentioned in section *thirty-two* of the Amendment Act shall cause the ground comprising Stands Nos. 1148 to 1150, inclusive, together with so much of Locatie Street as may be necessary, to be surveyed into stands of suitable size and shape, and thereafter, having caused a valuation to be made of each such stand by a sworn appraiser, may sell under such an agreement of purchase as is described in the said section any of the new stands so created to any person who has been in occupation of any building thereon for a period of not less than five years. Every such agreement of purchase shall be concluded within three months after notice of the valuation of this land has been given by the said registering officer to the occupant thereof or to the purchaser of the building thereon.

The provisions of the second paragraph of section *thirty-three* of the Amendment Act shall apply in respect of the removal of buildings from the stand by a person who has not entered into any such agreement of purchase, the period of six months in that section mentioned being reckoned from the date of a notice by the registering officer to that person of the result of the survey aforesaid.

(2) The said registering officer may, in his discretion, if satisfied that such an occupant as is mentioned in the said section *thirty-two* or in this section purchased the building erected on the stand, permit that occupant to purchase the stand upon the terms mentioned in the said section *thirty-two*, notwithstanding that he has been in occupation of the stand for a shorter period than five years.

**Provision where more than one Person in Occupation of a Stand.**

33. If more than one person is in occupation of any stand or part thereof, the registering officer shall call for tenders from such occupants and the person making the highest tender (provided it be not less than the said valuation) shall, subject to the completion of the agreement, be deemed the purchaser. Upon the failure of any purchaser to pay the instalment of the purchase price when due the provisions of sub-section (3) of section *nine* shall apply in the same manner as if such instalments were stand license moneys.

The owner who has not purchased his stand under this section shall be entitled to remove any buildings thereon at any time within six months from the commencement of this Act, but shall not be entitled to any compensation for loss or damage on any account whatsoever. If such buildings are not removed within the said six months the registering officer may cause the same to be removed without any form of legal process at the cost of such owner.

**Confirmation of Reservation of Stands for Rand Aid Association.**

34. The reservation of certain thirty-nine stands numbered 1068*a*, 1069*a*, 1070*a*, 1071 to 1086 inclusive, and 1151 to 1170 inclusive, and of Madras Street in the said township, in favour of the Trustees of the Rand Aid Association by Deed of Reserve No. 495 (which purported to have been granted by the Lieutenant-Governor under the Crown Land Disposal Ordinance 1903 and Executive Council Resolutions No. 1321 dated the 23rd day of November 1904, and No. 293 dated the 22nd day of February 1905, upon condition that the land reserved be used for charitable purposes) shall be and is hereby deemed to have been at all times a lawful reservation.

**(C) Township of Vrededorp.****Provisions for Conversion of Title in the Township of Vrededorp.**

35. (1) Section *five* of the Vrededorp Stands Act 1907 shall be and is hereby amended by the substitution of the words "fifteen pounds" for the words "forty pounds" occurring in sub-section (1) thereof.

(2) The Municipal Council of Johannesburg shall lodge with the Registrar of Deeds an approved or confirmed diagram of the Township of Vrededorp (as in the Vrededorp Stands Act 1907 described), and the title deeds thereto in manner provided by section *fifty* of this Act.

(3) As soon as the provisions of sub-section (2) have been complied with, the registering officer shall issue a certificate of freehold title to a Vrededorp stand to any registered holder (as defined in the Vrededorp Stands Act 1907) who produces to him a receipt (in the form shown in the Sixth Schedule hereto) for payment of moneys due to the said Council under the said Act as by this Act amended, and who pays for such certificate the fee of ten shillings mentioned in sub-section (2) of section *sixty-four* of this Act.

(4) The certificate of freehold title issued by the registering officer under this section shall be subject to the conditions prescribed by section *four* of the Vrededorp Stands Act 1907, and such conditions shall be incorporated in the certificate.

(5) Whenever in the Vrededorp Stands Act 1907, the words "Registrar of Deeds" occur, the term "registering officer" shall for the purposes of this Act be substituted therefor.

(D) *Prospect Township.*

**Power to Proclaim Certain Areas known as Prospect Township.**

36. Notwithstanding anything in any law in force at the commencement of this Act, it shall be lawful for the Governor to cause such areas within that portion of the proclaimed farm Doornfontein No. 140, Witwatersrand District, more particularly described in the Seventh Schedule as may be necessary to give effect to sections *thirty-six* to *forty-two* inclusive to be surveyed into lots, streets, and one square not exceeding one morgen in extent, and proclaimed as a township under the name of "Prospect Township" being approximately the ground which was in the year 1888 surveyed as a township under the said name of Prospect Township; provided that the holders of the mineral rights thereunder shall not in any way be affected in the free and undisturbed right of mining such as hitherto enjoyed by them according to law subject to the Mining Regulations from time to time in force.

**Terms upon which bona fide Purchasers of Stands in such Areas may Obtain Certificate of Registered Title.**

37. (1) Any person who *bona fide* purchased one or more stands within the said areas as stands in a township shall, upon payment of all arrear and current municipal rates, taxes assessments and sanitary fees and upon payment to the freehold owner of the ground of the sum of twelve pounds ten shillings for and in respect of each lot in extent five thousand square feet or less (and for any additional area at the same rate) be entitled to receive from the registering officer a certificate of title thereto and if possible to an adjoining lot also so as to make up a total area of one hundred by one hundred feet. Such certificate shall be subject to the provisions contained in the last preceding section.

Provided that if any rates, taxes, assessments or sanitary fees have been paid by any person in respect of any buildings or ground which is situated upon or within the said area and which is occupied or held by any person claiming under the provisions of this section, the person making such claim shall before obtaining freehold title, repay the amount of such rates, taxes, assessments and sanitary fees to the person who has paid the same; provided further that no person who, prior to the commencement of this Act, has purchased the lease of a stand within the said areas shall be liable for arrears of stand license moneys or rent in respect of such lease.

(2) For the purposes of this section the word "person" shall include the heirs, executors, administrators or assigns of the *bona fide* purchaser described in sub-section (1) notwithstanding that any deed of assignment or transfer under which the applicant claims is an underhand deed or has not been executed before or registered in the office of the Mining Commissioner or Registrar of Mining Rights.

**Mode of Establishing Claims to Rights in Prospect Township.**

38. (1) As soon as may be after the commencement of this Act, the registering officer shall cause a notice to be published four times in the *Gazette* and four times at intervals of one week in papers published respectively in Johannesburg, Durban, Cape Town and London calling upon all persons who claim any interest under the last preceding section to lodge their claims, duly supported by proof thereof, with the registering officer within six months from the date of first publication; provided that no claim made or lodged after the expiry of six months from the date of the first publication in the *Gazette* of the notice required by this section shall be deemed to be valid.

(2) At the expiry of the said term of six months the registering officer shall cause a list of all applicants, with the numbers of the stands claimed by each, to be published four times in the *Gazette* and as often at intervals of one week in a paper published in Johannesburg, calling upon all persons who desire to object to any claim to do so within six weeks of the first publication of such list and to lodge a notice of the objections with the grounds thereof with

the registering officer and to serve a copy on the claimant. In the said notice the registering officer shall appoint a time and place at which such claims and objections shall be considered. At the time and place appointed in the said notice the registering officer shall hear and determine the said claims and all objections thereto and may adjourn the hearing from time to time. The decision of the registering officer shall be subject to appeal to the Witwatersrand High Court and the decision of such court shall be final; provided that notice of such appeal be given within fourteen days of such decision, and the appeal be prosecuted as soon as possible.

#### **Surveys.**

39. After the said claims have been finally determined as aforesaid the Governor shall cause the survey provided for in section *twenty-three* to be carried out under the direction of the registering officer which survey shall, subject to the conditions herein set forth, include stands sufficient in number to provide for the grant of two lots of fifty by one hundred feet for each stand held or occupied by any person. The said survey shall follow the original survey and shall not without the consent of the freehold owner exceed the limit of such original survey as far as the same can be ascertained, but the said original survey may be varied so as to effect as far as possible the following objects:—

- (a) The placing of all lots awarded under this Act within a compact area;
- (b) the placing of existing dwelling-houses or other permanent buildings entirely within the boundaries of lots awarded to the owners of such houses and buildings;
- (c) the award of lots where their existence will cause the least interference with mining operations upon the said area or upon the mine of which the said area forms a part, and for the purpose of determining that question it shall be the duty of the registering officer to consult with the freehold owner; provided that the registering officer may award to the persons entitled to lots not built upon or occupied or lots occupied by roads, railways, or by other persons other lots in lieu thereof, in order to effect the objects in this section set forth.

#### **Form which Survey may take.**

40. The survey hereby authorised may, in order to secure regularity in the laying out of the said township, provide for a number of lots in excess of the actual number required for the purposes of the preceding section as appearing by the number of claimants therefor at the time of survey; provided that until the award, no lot shall be deemed to be an integral part of such township, which will consist only of such lots as are awarded under this and the last preceding section; provided further that, after all claims filed within the prescribed time have been decided, the Governor may direct that not more than ten of such lots in excess (if any), shall be devoted to Government or municipal purposes and the remainder (if any) may be sold in freehold, (but not otherwise), by the freehold owner of the ground, but no municipal rates, taxes, sanitary fees, special assessment or other fees of any nature whatsoever shall be claimable in respect of any such excess lots or areas situate within the proposed township so long as such lots or areas remain unsold or unoccupied.

#### **How far Trading Permitted on Lots in Prospect Township.**

41. Licenses to trade may be issued for the said lots under the laws or municipal regulations in force save that no license to carry on the business of a jeweller or worker or dealer in precious metals, scrap metals or precious stones, nor a license under the laws for the time being regulating the sale of intoxicating liquors, shall be granted.

#### **Standholder under Law No. 15 of 1898, to be deemed to be Registered Holder.**

42. The lessee at the commencement of this Act of any stand held under the provisions of article *ninety-two* of Law No. 15 of 1898, within the said area shall be deemed to be a registered holder under this Act in respect of such stand, and shall be entitled to receive a freehold title to such stand upon payment of all arrears of rent, together with the sum of twelve pounds ten shillings.

#### **(E) Township of Newtown.**

#### **Provisions Applicable to the Township of Newtown.**

43. (1) Section *twenty-six* of Ordinance No. 19 of 1903 and section *six* of Ordinance No. II (Private) of 1905, shall be and are hereby repealed, and notwithstanding anything to the contrary in any law contained, the following provisions shall be substituted therefor and shall be applicable to that portion of the area described in Ordinance No. 19 of 1903, known as Newtown:—

- (a) Any land or lots in the said area may be used by the Municipal Council of Johannesburg for such municipal purposes and for such periods as the Council may from time to time determine;

(b) Any land or lots in the said area may be leased by the said Council for a term not exceeding five years without the option of renewal;

(c) any land or lots in the said area may, with the consent of the Governor, be sold by the said Council, on such conditions as the Governor may approve, but the following provision shall be included in such conditions, namely:—

(i) The land or lots shall be sold by public auction to the highest bidder for not less than an upset price to be fixed by the Council, with the approval of the Governor, such upset price to include the following special charges, namely: the cost of improvements made by the Council, survey and registration charges;

(ii) The Council shall publish in a newspaper circulating within the Municipality of Johannesburg for at least once a week for three consecutive weeks prior to the date of sale a notice containing full particulars of the intended sale;

(iii) The moneys realized by such sale shall after deducting the amount of the special charges above mentioned be applied by the Council in the manner prescribed in section *thirty-two* of the Johannesburg Borrowing Powers Ordinance 1903;

provided that nothing in this section contained shall apply to streets, squares and open spaces in the said area.

(2) In the case of lands or lots in the said area which, prior to the commencement of this Act, have been leased by the Council under the provisions of section *twenty-six* of Ordinance No. 19 of 1903, or of section *six* of Ordinance No. II (Private) of 1905, the Council may grant the lessees thereof a freehold title on such terms and conditions as may be agreed upon between the Council and such lessees and as the Governor may approve.

(3) For the purpose of sub-section (2) of this section the Council shall be deemed to be a "township owner" and each of the said lessees to be a "registered holder" and the provisions of this Act with regard to the issue of a certificate of freehold title shall *mutatis mutandis* apply.

### PART III.

#### SPECIAL PROVISIONS APPLICABLE TO CERTAIN AREAS IN THE MINING DISTRICT OF KRUGERSDORP.

##### Inapplicability of Certain Volksraad Resolutions.

44. The provisions of Second Volksraad Resolution No. 940 of 1896 and of the Brickmaking Regulations promulgated by Resolution of the First Volksraad No. 188, dated the seventeenth day of May, 1892, shall be and are from the commencement of this Act no longer applicable, except as herein provided to that portion of the farm Paardeplaats No. 73, District Witwatersrand (Mining District of Krugersdorp), known as "Burghershooop" the "Coolie Location" and the "New Brickfields" as shown by a plan framed by F. H. Rissik, Esquire, Government land surveyor, and approved by the Surveyor-General under No. 2980/97 on the twentieth day of August, 1897.

##### Certain Areas to be deemed a Government Township.

45. From and after the commencement of this Act, the following areas of land shown on the said diagram, that is to say:—

(1) the area known as Burghershooop;

(2) the area known as the "Old Coolie Location"; and

(3) two certain portions of the area known as the "New Brickfields" which lie north of Wagen Street, comprising

(a) the area laid out into brickmakers' residential stands numbered 1 to 160; and

(b) the area land out into brickmaking sites and *bewaarplaatsen*, numbered 161 to 172 inclusive, together with streets adjoining the same; shall be deemed to be a Government Township and shall be known as the "Township of Burghershooop". The holders of licenses for stands, brickmaking sites, and *bewaarplaatsen* in the areas described in sub-sections (1) and (3) shall be deemed to be registered holders and the brickmaking sites and *bewaarplaatsen* numbered 161 to 172 shall for the purposes of this Act be deemed to be stands.

Where any person, registered at the commencement of this Act in the office of the Mining Commissioner as the holder of any stand, brickmaking site or *bewaarplaats* in such areas has, at any time prior thereto, *bona fide* sold, transferred or assigned the said stand, brickmaking site or *bewaarplaats*, or his interest therein to any other person, the Mining Commissioner may, upon the application of such other person and after notice in the *Gazette* and in a newspaper circulating in the Mining District of his intention so to do, register such stand, brickmaking site or *bewaarplaats* in the name of such other person, who shall thereupon be deemed to be the holder of a license within the meaning of this section for such stand, brickmaking site or *bewaarplaats*. If any objection to such application be lodged with the Mining Commissioner

within fourteen days after the first publication of such notice, the Mining Commissioner shall appoint a time and place for the hearing of such application and such objection, and after hearing such application and objection the Mining Commissioner shall give his decision thereon. Such decision shall be subject to appeal to the Witwatersrand High Court provided that notice of such appeal be given within fourteen days of such decision and the appeal be prosecuted as soon as possible.

*As amended by section six of Act No. 30 of 1909, sub-section (2) whereof provides:—*

(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.

#### **Vesting of Freehold Title of Paardeplaats in Municipality of Krugersdorp.**

46. On the commencement of this Act, that portion of said farm Paardeplaats No. 73, enclosed within the boundaries set out in the Eighth Schedule shall be transferred in freehold to the Council of the Municipality of Krugersdorp under the provisions of the Crown Land Disposal Ordinance 1903 but subject to the conditions set forth in section *forty-seven* of this Act.

#### **Administration of Area by Council as Brickfields.**

47. The said Council shall administer the said area as a brickfields subject to such regulations as the Governor may prescribe and subject further to the following conditions:—

(1) The persons holding licenses for brickmaking sites and *bewaarplaatsen* within the said area shall be entitled upon payment of the sum of five shillings per month to hold the same for the purposes of making and storing bricks thereon for a period of not less than five years.

(2) Any person who, being the holder of a license for a brickmaking site or *bewaarplaats* prior to the first day of July 1907, has erected a dwelling-house thereon, shall be entitled, upon payment of the sum of five shillings per month, to reside in the said dwelling-house for a period of ten years and to use for the said period any ground fenced in provided such dwelling or fencing does not encroach upon the boundaries of an adjoining brick-making site or *bewaarplaats* or other land adjoining.

(3) The said Council may with the approval of the Governor, expropriate the rights of any person holding brickmaking sites or *bewaarplaatsen* on the said area.

(4) The persons holding licenses for brickmaking sites and *bewaarplaatsen* shall pay to the Mining Commissioner within a period which the Governor shall, by the said regulations prescribe, all arrears of moneys due up to the date of the taking effect of the regulations; in default of such payment within the time so prescribed, all the right and title to the said brickmaking sites and *bewaarplaatsen* shall lapse and they shall be dealt with in accordance with the said regulations. The periods of five and ten years respectively mentioned in conditions (1) and (2) shall be reckoned from the date of the taking effect of the said regulations.

*Condition (4) added by section seven of Act 30 of 1909, sub-section (2) thereof providing:—*

(2) The persons holding licenses to the said brickmaking sites and *bewaarplaatsen* shall, for the purpose of procuring the registration thereof into their names, make application to the Mining Commissioner, who shall deal with such applications and shall, when necessary, apply thereto the provisions *mutatis mutandis* of section *forty-five*; provided that no such application may be considered by the Mining Commissioner unless the same shall have been lodged in his office prior to the thirty-first day of March, 1910.

#### **Certain Portion of Farm Paardekraal to be deemed a Private Leasehold Township.**

48. (1) That portion of the farm Paardekraal No. 73, District Witwatersrand, as is more particularly described in the Ninth Schedule shall be transferred in freehold to the said Council under the provisions of the Crown Land Disposal Ordinance 1903, and subject to the following conditions:—

(a) For the purpose of this Act, but subject to the provisions of this section, the said portion shall be deemed to be a "private leasehold township", the Council of the Municipality of Krugersdorp shall be deemed to be the "township owner" thereof, and the holders of brickmakers' stands within the said area to be "registered holders".

(b) It shall be the duty of the said Council within three months after the commencement of this Act to cause the said area to be surveyed into lots as nearly as may be as the same is now occupied, and reduced to diagram

which shall be duly confirmed by the Surveyor-General and a copy thereof lodged with the registering officer.

(c) The holders of lots within the said area shall be entitled to a certificate of freehold title under this Act upon payment to the said Council of an amount determined as follows:—

(i) The registered holder of a stand of a value not exceeding two hundred pounds shall pay ten pounds;

(ii) the registered holder of a stand of a value not exceeding three hundred pounds shall pay fifteen pounds;

(iii) The registered holder of a stand of a value exceeding three hundred pounds shall pay twenty pounds.

(2) Nothing in this section contained shall be deemed to exclude any lots in the said portion, in respect of which a certificate of freehold title is not issuable under this section, from the provisions of the Municipal Corporations Ordinance 1903 or the Town Lands Ordinance 1904 or any amendment of such laws.

#### PART IV.

##### SPECIAL PROVISIONS RELATING TO THE STAND TOWNSHIP OF HEIDELBERG.

##### Issue of Freehold Title in respect of Stand Township of Heidelberg.

49. Stands numbered 65, 66, 121 to 124 inclusive, 126 to 128 inclusive, 177, 179, 181, 182, 327, 328, 379, 518 to 520 inclusive, 622 to 624 inclusive, and 678 to 680 inclusive in the stand township of Heidelberg shall, for the purposes of this Act, be deemed to be stands in a Government township and shall be subject to the following conditions, namely:—

(1) The sum which shall be payable for the freehold of each of the said stands shall be the amount of the stand licenses in arrear on the thirtieth day of April, 1906, together with a sum calculated at the rate of three shillings per annum on each stand from the first day of May, 1906, until the date of issue of a deed of grant in freehold under this Act.

(2) The payment of such amount shall be made in one sum and shall be deemed to be payment under section *nine* and of all arrears due in respect of a stand.

(3) Unless payment of such amount be made within twelve months from the commencement of this Act, the Mining Commissioner shall cause each stand, in respect of which such payment is in default, to be dealt with under the provisions of sub-section (3) of section *nine*.

#### CHAPTER III.

##### REGISTRATION.

#### PART I.

##### Mode of Registration.

##### Duties of Township Owners in respect of Lodging of Diagrams and Title Deeds.

50. (1) It shall be the duty of the owner of every township in existence at the commencement of this Act (including a township owner as by this Act defined), to lodge for noting, as in this section mentioned, with the Registrar of Deeds within twelve\* months after such commencement, a copy of an approved or confirmed diagram of the land comprised in the township, together with the title deed or lease under which he holds such land, unless such diagram and deed have already been lodged and noted.

(2) The freehold owner if he is not the township owner, shall within the same period lodge the freehold title deed with the Registrar of Deeds. If such title deed or lease be for any reason in the possession or custody of any person other than the freehold owner, the person so in possession shall, within the period aforesaid, lodge the title deed with the Registrar of Deeds, and, where the land is mortgaged or otherwise encumbered, the mortgage bond or other instrument of encumbrance.

(3) Where the whole of the land held under such title deed is comprised in the township, the Registrar of Deeds shall thereupon make on each title deed and on his office copies thereof an endorsement in as nearly as possible the following terms:—

“The land herein described has been laid out as a township under the name of.....according to diagram S.G. No.....framed by Surveyor.....in.....and <sup>approved</sup> confirmed by the Surveyor-General on the.....day of.....190.....and is subject to the provisions of the Townships Amendment Act 1908.”

\* As amended by section *eight* of Act No. 30 of 1909.



(4) Where only a portion of the land held under such title deed is comprised in the township, the Registrar of Deeds shall issue to the owner of the said land, a certificate (hereinafter styled a certificate of township title) under his hand and seal, of the said portion so comprised in the township, which certificate shall be as nearly as possible in the form set out in the Tenth Schedule and shall have attached thereto a diagram of the said portion. Upon issuing such certificate, the Registrar of Deeds shall write off the area of the portion therein described on the title deed aforesaid and shall cause the necessary deduction to be laid down on the diagram of the land held under the said title deed. Thereupon such certificate of township title shall for all purposes be and serve as the sole title deed of the portion of land therein described., provided that, upon issuing such certificate the registrar shall in cases where the land comprised therein is subject to any bond or other encumbrance endorse the fact of such issue on such bond or other instrument of encumbrance, make an entry thereof in the debt or other register, and endorse on such certificate that, in terms of this sub-section, it is mortgaged or encumbered by such bond or other instrument; whereupon the land held under such certificate shall be deemed to be hypothecated or encumbered as fully and effectually as if it had been originally hypothecated or encumbered by such bond.

#### **Survey of Private Leasehold Townships.**

51. (1) If at the commencement of this Act the township owner of a semi-Government township or of a private leasehold township has not lodged an approved or confirmed general plan of such township in terms of section *twenty-nine* sub-section (3) of the Transfer Duty Proclamation 1902 as amended by section *four* sub-section (d) of the Registration of Mining Rights Proclamation 1902, such township owner shall immediately cause a survey to be made of such township. For the purpose of such survey and of determining the boundaries of any stands or lots in such township the provisions of sections *twenty-three* to *thirty* inclusive shall apply in like manner as if such township were a Government township on the farms Randjeslaagte No. 138 or Braamfontein No. 127, provided that the Arbitration Board shall require any persons appearing before it to bear, in such proportion between the two parties as the said board may award, such expenses of the Arbitration Board as are described in section *fourteen*.

(2) Should the township owner fail to comply with the provisions of sub-section (1) hereof, the Surveyor-General may cause such survey to be carried out at the cost of the township owner and such cost shall be recoverable from the township owner on an order of the Supreme Court, granted on the application of the Surveyor-General.

(3) In order to determine the boundaries of any stands or lots in the township of Vrededorp, the Municipal Council shall be deemed to be a "township owner" and the township of Vrededorp a "private leasehold township" for the purposes of this section.

#### **Duties of Owners of Townships Approved after Commencement of Act.**

52. (1) The owner of any township approved after the commencement of this Act shall, upon notification by the Surveyor-General of approval or confirmation of the general plan and diagrams as is by section *seven* of the principal law provided, lodge with the Registrar of Deeds the documents mentioned in sub-section (1) of section *fifty*. The Registrar of Deeds shall thereupon make the endorsement on the title deed or issue a certificate of township title as is provided by sub-section (3) or sub-section (4) as the case may be of section *fifty*; provided that, in cases where the land upon which or upon a portion of which the township is situate is hypothecated under a mortgage bond, the registrar shall not make the endorsement under sub-section (3) nor issue the certificate of township title under sub-section (4) without the consent of the legal holder of such bond. Notwithstanding the fact that such bond remains uncancelled, the registrar may upon production of the bond together with the written consent of the legal holder thereof issue the certificate of township title in accordance with the provisions of sub-section (4) of section *fifty*. Thereafter the Registrar of Deeds shall notify the Minister that the provisions of this section have been complied with.

(2) Notwithstanding anything in section *seven* of the principal law contained, the Minister shall not cause the township to be declared an approved township until the Registrar of Deeds has notified him that the provisions of this section have been complied with.\*

#### **Where Registration of Title to be Effected.**

53. (1) At any time between the passing and the commencement of this Act, the Governor shall establish at Johannesburg an office to be styled "The Rand Townships Registration Office" and appoint an officer to be in charge of such

\* The provisions of this section do not apply to an application for the establishment of a township in terms of Ordinance No. 11 of 1931 (see section *ten* of that Ordinance).

office and carry out the registration described in sub-section (2) of this section. Such officer shall be styled "the Rand Townships Registrar".

(2) After the commencement of this Act the registration of all documents of whatsoever nature affecting the freehold title to the land comprised within any township, or any stand or lot therein situate, in the mining districts of Johannesburg, Boksburg or Krugersdorp may be effected either in the office of the Registrar of Deeds or in the office of the Rand Townships Registrar.

(3) If any such township or stand or lot therein be situate elsewhere in this Colony such registration shall be effected in the office of the Registrar of Deeds.

(4) Until the diagram and title deeds have been lodged and noted as by section *fifty* provided, no certificate of grant of freehold title shall be issued or registered.

#### **Transmission of Documents by Registrar.**

54. (1) As soon as may be after the commencement of this Act, the Mining Commissioners of Boksburg and of Krugersdorp shall transmit to the Rand Townships Registrar, and every Mining Commissioner of other mining districts (except the Mining Commissioner of the Mining District of Johannesburg) shall transmit to the Registrar of Deeds, true copies of all property registers, deeds, bonds, plans, diagrams, and other documents affecting the title to stands or lots in townships registered in their respective offices.

(2) The Rand Townships Registrar shall at the same time transmit to the Registrar of Deeds such information as may be necessary for the purpose of opening registers of such townships as have hitherto been registered in the office of the Registrar of Mining Rights but not in the Deeds Office, such information to include, where necessary, copies of the general plans of the said townships.

(3) The Rand Townships Registrar shall supply the Registrar of Deeds with duplicates of all certificates of freehold title issued by him under the provisions of this Act, and of all deeds of grant registered by him.

(4) The Registrar of Deeds shall supply the Rand Townships Registrar with copies of the registers of all townships situated in the Mining Districts of Johannesburg, Boksburg, or Krugersdorp registered in his office but which have not hitherto been registered in the office of the Registrar of Mining Rights, and with copies of the general plans thereof and of all current title deeds of lots in all townships in the said mining district.

(5) Each Mining Commissioner and the Registrar of Deeds and the Rand Townships Registrar when transmitting the registers, deeds, and other documents or copies thereof or other information as above provided, shall also furnish true copies of all deeds, bonds, interdicts, attachments, master's notices, or other processes or documents which affect or may be presumed to affect the properties to which the said registers, deeds, copies, or information relate.

#### **Deeds Office Procedure to Apply save as otherwise Provided.**

55. (1) and (2) (Repealed by Act No. 13 of 1918.)

(3) All deeds registered under the provisions of this Act in the Rand Townships Registration Office affecting land which has been converted into or was originally sold in freehold shall be in triplicate, and it shall be the duty of the Rand Townships Registrar to transmit on the next business day after the date of registration, the triplicate originals of all such deeds to the Registrar of Deeds, who shall record the same in the appropriate registers kept in his office and shall file them of record in his office.

(4) All deeds registered in the office of the Registrar of Deeds affecting the title to any stand or lot in any township situate in the Mining Districts of Johannesburg, Boksburg or Krugersdorp, shall be in triplicate and it shall be the duty of the Registrar of Deeds to transmit on the next business day after the date of registration, the triplicate originals of all such deeds to the Rand Townships Registrar, who shall in like manner record the same in the appropriate registers kept in his office and shall file them of record in his office.

(5) Notwithstanding anything to the contrary contained in any law or regulation, such triplicate original deeds shall not require to be stamped nor shall any fees of office be required to be paid in respect of the registration or recording thereof, and they may be black carbon copies.

(6) Any deed of grant issued by the Crown under the provisions of the Crown Land Disposal Ordinance 1903 or any amendment thereof or under the provisions of this Act in respect of any stand or lot in any township situate in the Mining Districts of Johannesburg, Boksburg or Krugersdorp, shall be framed in triplicate and shall first be registered in the Rand Townships Registration Office. It shall be the duty of the Rand Townships Registrar to transmit on the next business day after the date of registration the triplicates of all such deeds of grant to the Registrar of Deeds who shall record the same in the appropriate registers kept in his office and shall file them of record in his office.

(7) Where copies are required to take the place of original deeds affecting the freehold title of stands or lots situate in the Mining Districts of Johannesburg, Boksburg or Krugersdorp, which original deeds have been lost or destroyed, application for such copies may be made either to the Registrar of Deeds or to the Rand Townships Registrar. Before issuing any such copy the registrar to whom application has been made shall notify the other registrar of such application and shall not issue the copy until he shall have received from such other registrar a notification that there exists no objection to such issue. Upon issue of any such copy as aforesaid the registrar issuing the same shall forthwith notify the fact of such issue to the other registrar.

(8) When any interdict, attachment, Master's notice or other process or document restraining or purporting to restrain or hinder any owner of freehold stands or lots in any township situate in the Mining Districts of Johannesburg, Boksburg or Krugersdorp is served upon or lodged with either the Registrar of Deeds or the Rand Townships Registrar, such registrar shall forthwith in the speediest possible manner notify the fact to the other Registrar.

\* (9) Notwithstanding anything in this Act contained it shall be lawful for the Mining Commissioners of the different mining districts of this Colony to continue and carry on under the provisions of the existing laws and regulations relating thereto, the registration of any stands or lots in any Government, semi-Government or private leasehold township situate within their respective districts.

(10) It shall be the duty of all persons who serve upon or file with the registering officer any interdicts, attachments, notices, or other processes or documents to lodge two copies thereof with such registering officer.

† (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 townships which fall under the provisions of section *sixty-nine* until the general plans of those townships have been approved or confirmed.

**Validation of certain Non-notarial Documents Executed in Good Faith which should under Proclamation (Transvaal) No. 8 of 1902 have been Executed Notarially.**

56. (1) Where any lease or cession of a stand or lot in any township whether freehold or leasehold, has before the commencement of this Act, been executed in good faith but has not been executed notarially as required by section twenty-nine of the Transfer Duty Proclamation 1902, it shall be competent for the registering officer upon satisfying himself that such lease or cession of lease was so executed, and that in other respects it complies in a reasonable manner with the law, to register such lease or cession thereof in the same manner as if the same had been notarially executed, and such lease and cession of lease shall upon such registration be deemed to be and to have been from the date of execution as valid and effectual for all purposes as if the said lease and cession of lease had been notarially executed.

(2) If any township owner has issued leases containing a proviso that the same may not be ceded, transferred, or mortgaged without his consent and if such township owner neglects or refuses to provide means or machinery whereby his consent may be obtained in a reasonable manner or at a reasonable cost, or is absent from South Africa without leaving a representative duly authorised to give such consent, or if such township owner unreasonably withholds such consent, the Supreme Court, or, when the land leased is situate within the Mining Districts of Johannesburg, Boksburg or Krugersdorp, the Witwatersrand High Court, may upon application by the registering officer authorise him to effect registration without such consent and thereupon such consent shall be deemed to be duly given.

*Sections 57 and 58.—Repealed by Act No. 52 of 1909.*

**Records of Semi-Government or Private Leasehold Townships to be Filed with the Registering Officer by Township Owner who shall have Access thereto.**

59. (1) Whenever the township owner of a semi-Government or private leasehold township has sold in freehold all the stands or lots therein, he shall transmit to the registering officer for filing of record—

- (a) all leases and transfers or cessions of leases which have been issued or noted in his office;
- (b) all cancellations of leases and documents relating thereto;
- (c) all registers in which such leases, transfers, cessions or cancellations have been noted;
- (d) all books of account showing periodical payments of licenses or rentals.

(2) Such township owner may at any time require the registering officer to receive and file of record the books and documents mentioned in sub-section (1).

\* As amended by section *nine* of Act No. 30 of 1909.

† Added by section *nine* of Act No. 30 of 1909.

(3) The township owner shall at all reasonable times have the right of access, either personally or by his agent, to the books and records transmitted to or received by the registering officer under this section or to the documents furnished to the registering officer under section *seventeen*, may make copies thereof or extracts therefrom and may require the registering officer to cause such books, records or documents to be produced in any Court of Law.

(4) The registering officer shall make no charge whatever to the township owner for access given, copies or extracts taken or for the production of any books, records or documents under this section.

## PART II.

### *Issue of Certificates.*

#### **Form of Freehold Title.**

\*60. (1) Upon conversion under this Act of title to a stand or lot to freehold the freehold title shall—

(a) in the case where the freehold of the land before conversion is vested in the Crown, be in the form of a deed of grant under the Crown Land Disposal Ordinance 1903 or any amendment thereof;

(b) in the case where the freehold of the land before conversion is vested in any person other than the Crown, be in the form of a certificate as set out in the Eleventh Schedule.

(2) Such certificates shall be issued by, and such grants shall be issued through, the Rand Townships Registrar in respect of stands or lots in townships situate within the Mining Districts of Johannesburg, Boksburg, or Krugersdorp, and the Registrar of Deeds in respect of stands or lots in townships situate without the said mining districts.

(3) Such certificate or grant shall only be issued upon compliance by the registered holder with the requirements of this Act and upon surrender by him to the Rand Townships Registrar or Registrar of Deeds (as the case may be) of the transfer, lease, receipt or other document by virtue of which he holds the stand or lot, or if the original of that transfer, lease, receipt, or other document has been lost, then upon surrender of a duly certified copy thereof issued to take the place of such original; provided that if no such transfer, lease, receipt or other document can be produced or no duly certified copy thereof issued, a certificate by the Mining Commissioner or registering officer that the person claiming the freehold title is the registered holder of the stand or lot shall be accepted in place of such transfer, lease, receipt, or other document of title."

(4) It shall be lawful to include in such certificate or grant and in any transfer of any stands or lots falling under the provisions of this Act any number of stands or lots situate in the same township and held by the same registered holder or registered owner.

(5) Upon the registration of a certificate or grant of freehold title, the transfer, lease, receipt or other document of title by virtue of which the stand or lot is held shall lapse and the Rand Townships Registrar or Registrar of Deeds (as the case may be) shall immediately upon such registration being effected notify the Mining Commissioner of the district in which the stand or lot is situate, of such registration.

(6) Upon conversion into freehold of all the stands or lots in any Government, semi-Government or private leasehold township the register or registers of such township kept by the Mining Commissioner and all title deeds, bonds, plans, diagrams and other documents relating thereto shall as soon as possible be transmitted by the Mining Commissioner to the Registrar of Deeds or Rand Townships Registrar (as the case may be), who shall take charge of the same and shall file them in his office.

#### **Certificates to be Subject to Existing Bonds, Servitudes, etc.**

61. Every certificate or grant issued under the last preceding section shall be issued subject to—

(a) all bonds servitudes or attachments, interdicts and other encumbrances of whatsoever nature affecting the stand or lot included therein, except those removed under this Act or otherwise, which bonds servitudes and other encumbrances shall, from the date of the registration of such certificate, be taken to bind the freehold title to the same extent for the same period and as effectually as the leasehold or *voorkeurrecht* title had been theretofore bound;

(b) all such servitudes affecting the freehold title of the land comprised in such stand or lot as have not been removed in respect of such stand or lot by agreement between the parties;

and it shall be the duty of the registering officer at the time of the issue of such certificate or grant to endorse thereon a short memorandum containing the particulars of any such bonds servitudes or other encumbrances as are referred to in paragraphs (a) and (b) of this section and duly registered.

\* As amended by section *ten* of Act No. 30 of 1909.

**Effect of Issue of Freehold Title.**

62. (1) The grant of a certificate of freehold title or deed of grant under section *sixty* shall have the effect of vesting in the grantee the freehold of the land included and described therein as fully as if transfer of the land had been made by *tranfeser* deed in freehold to such grantee and freed without any further or other deed of release or discharge from all bonds servitudes interdicts and other encumbrances (if any) from which, by virtue of an agreement under section *sixteen*, the said land is to be freed, subject—

(a) to such of the terms and conditions appertaining to the *voorkeurrecht* or leasehold title of the stand or lot included in the said certificate or grant, or to similar terms and conditions as may be approved by the Governor where the freehold of such stand or lot is vested in the Crown, or, as may be deemed necessary by the township owner, with the approval of the Governor, where the freehold of such stand or lot is vested in any person other than the Crown;

(b) to the condition that the title conferred by such certificate or grant shall and shall not respectively be liable to be annulled, set aside, limited and affected on every ground and by reason of every and any cause, matter, or thing by which the *voorkeurrecht* or leasehold title to the stand or lot include in such certificate or grant would, or would not, have been liable to be annulled, set aside, limited or affected if such property had been regularly transferred to the holder of such certificate or deed of grant; provided that such title shall not be liable to be annulled, set aside, limited, or affected by reason of any conditions or the breach of any conditions contained in such *voorkeurrecht* or leasehold title unless such certificate or grant is under this section made subject to such conditions.

(2) The Governor may make, alter and rescind regulations for the purpose of fixing the terms and conditions to which the freehold title to stands or lots in each and every township shall be subject. Such regulations shall have the same force and effect as the provisions of this Act, from the date of the publication of the regulations in the *Gazette*.

**Separate Diagrams of Stands or Lots not to be necessary.**

63. Notwithstanding anything to the contrary contained in the law for the time being relating to registration of deeds, it shall not be necessary for the purpose of the issue of a certificate of freehold title or deed of grant under section *sixty* or for the registration of any transfers of any stand or lot in any township falling under the provisions of this Act, to have framed separate diagrams of each stand or lot; but it shall be sufficient for such purpose to refer in such certificate, deed of grant, or transfer deed to the approved or confirmed plan of the township filed of record in the office of the registering officer; provided that nothing in this section contained shall be construed as preventing diagrams of the stands or lots included in any certificate or transfer being attached thereto at the option of the transferor or transferee; provided further that transfer or lease of portions of stands or lots may be registered, if an approved diagram be annexed to the first transfer of such portion, and an approved diagram of the stand or lot of which it is a portion be lodged at the office where the registration is to take place; provided also that, whenever a servitude on a stand or lot affects only a portion of such stand or lot, a diagram representing the portion of such stand or lot affected by such servitude shall be lodged at the office where the registration of the servitude is to take place, unless such servitude is already represented on the general plan of the township.

**Exemption of Certificate of Title from Transfer Duty or Stamp Duty.**

64. (1) Notwithstanding anything to the contrary in any law contained, the issue of a certificate or deed of grant of freehold title under this Act upon any stand or lot for which a lease for more than forty years has been registered, or, if not registered, then duly executed before the taking effect of the transfer Duty Proclamation, 1902, shall not be subject to any stamp duty or transfer duty; provided that in case of any such lease for a term of less than forty years, the amount payable as transfer duty shall be reduced by an amount which bears the same proportion to the total amount of transfer duty as the unexpired term of the lease bears to the whole term.

(2) In all cases a registration fee of ten shillings shall be payable in stamps upon the registration of the certificate or deed of grant herein provided for.

**Arrear Stand Licenses to be Paid and Fines and Costs before Certificate of Title Granted.**

65. Before a certificate of freehold title or deed of grant to any stand is issued under section *sixty* the applicant shall pay all arrear stand license moneys in respect of such stand (including extra license moneys fines and

costs imposed by Law No. 15 of 1898), in the case of Government townships, and before the date of the agreement for the purchase of freehold title in the case of other townships, unless otherwise agreed.

Provided that upon the recommendation of the Council of the Municipality where a Municipality exists, or upon the recommendation of the Magistrate where there is no Municipality, the Government may remit the arrear stand license moneys upon any stand in a Government township not exceeding in value one hundred pounds for any or all of the months from July to December 1908 (both such months inclusive).

#### **Vesting of Mineral Rights.**

66. (1) A certificate or deed of grant under this Act shall be deemed to vest the mineral rights in or under the stand or lot therein described in the holder thereof unless contrary provision is made in the agreement by which the freehold is obtained or in the lease of such stand or lot theretofore existing.

(2) A certificate or deed of grant in respect of a township laid out before the commencement of this Act on Crown Land shall not be deemed to vest the mineral rights in the holder thereof.

#### **Liability of Registered Holder or Registered Owner.**

67. (1) Nothing in this Act contained shall be deemed to absolve the registered owner of a stand or lot from paying all municipal rates, taxes in respect of erven or other moneys due to the Council of a Municipality for sanitary services in respect of such stand or lot, and the registering officer shall not pass transfer or cession of such stand or lot until a certificate signed by the town clerk or other person authorized by the Council as by law provided is produced to such registering officer showing that all such rates, taxes and other moneys have been paid provided that the word "transfer" or "cession" shall not include the issue of a certificate or deed of grant of freehold title under this Act.

(2) The registering officer shall not issue a certificate of freehold title under this Act in respect of any stand or lot situate in a district in which definition (B) of ratable property contained in section *three* of the Local Authorities Rating Ordinance 1903 applies until a certificate signed as aforesaid is produced to such registering officer showing that all municipal rates in respect of the freehold interest therein have been paid.

#### **Title to Stands Registered in Name of Government.**

68. In the case of stands in Government townships registered in the name of the Government the *voorkourecht* title thereto shall be deemed to have lapsed and shall be cancelled as at the commencement of this Act, and such stands shall thereupon be deemed to vest and shall be registered in the name of the Crown.

#### **Provision for Delay in Obtaining Certificate owing to General Plan not being Filed.**

69. (1) In the case of a stand township or a private leasehold township for which there is no approved or confirmed general plan in existence at the commencement of this Act, no certificate or grant of freehold title shall be issued until an approved or confirmed general plan of the said township has been lodged in the office of the registering officer.

(2) A registered holder of a lot or stand in such a township who, if the diagram or general plan had been so filed, would be entitled to receive a certificate or deed of grant of freehold title under the provisions of this Act, shall be entitled to receive a receipt, in the form shown in the Twelfth Schedule.

(3) Such receipt shall be attached to the title-deeds of the stand or lot and form part thereof and shall be endorsed with all memoranda of transfer, bonds or other encumbrance in the same manner as the title-deeds. Such receipt shall be handed to the registering officer on issue by him of the certificate or deed of grant of freehold title in exchange.

(4) Such receipt shall be evidence of the fact of compliance by the said registered holder with those provisions of this Act which entitle him to a certificate or deed of grant of freehold title but shall not be regarded as evidence of such title.

#### **Application of Sub-section (4) Section sixty and Section sixty-three to Semi-Government Townships and Private Leasehold Townships.**

70. The provisions of sub-section (4) of section *sixty* and section *sixty-three* shall apply to private freehold townships and to any lots or stands in semi-Government townships or private leasehold townships sold in freehold whether previously sold in leasehold or not before the commencement of this Act, and the word "purchaser" shall when applied to such townships, stands, or lots be substituted for the words "registered holder" or "registered owner" (as the case may be) occurring in sub-section (4) of section *sixty*.

## CHAPTER IV.

## MISCELLANEOUS AND CONCLUSION.

**Service of Notices and other Documents.**

71. Any notice or other document required by this Act to be served upon any person shall be deemed to be effectually served if delivered personally to such person or left at or sent by registered post to his last known place of abode or business, or, whenever he is absent from the Colony, if such notice or other document is served in manner aforesaid on any agent in this Colony of such person.

**Reservation of Mineral Rights from Freehold Title.**

72. Save as is otherwise by this Act provided, it shall be lawful for a "township owner" as defined by this Act, or for an "owner" as defined by the principal law, to sell any lot in a township in freehold subject (*inter alia*) to reservation by such owner of all rights to precious or base metals or precious stones thereon or thereunder.

*The following further provisions have been added by Act No. 30 of 1909:—*

**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 Townships 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.**

73. This Act may be cited for all purposes as the Townships Amendment Act, 1908, and shall be and read as one with the principal law and shall come into operation on the date on which the Precious and Base Metals Act 1908 comes into operation.\*

## FIRST SCHEDULE.

## LIST OF STAND TOWNSHIPS IN THE COLONY.

Mining District of Johannesburg. Albertskroon. Booyens (portion on Claims). Braamfontein Werf. Braamfontein (Lindeques). Burgersdorp. City and Suburban (including all extensions). Denver. Fordsburg. Florida (Old). Florida (New). Ferreiras. Germiston North. Germiston East. Germiston West. Hamberg. Jeppestown (including Belgravia). Jeppestown South. Johannesburg. Marshalls. Mayfair. Malvern. Roodepoort. Regents Park. Roodepoort North. Springfield.	Sunnyside. Kenilworth (if and when authorised). Wanderers View.  Mining District of Heidelberg. Heidelberg. Greylingstad. Coetzeeberg.  Mining District of Klerksdorp. Klerksdorp. Pienaarsdorp. Venterskroon. Henley.  Mining District of Barberton. Barberton. Berea. Kimberley Square. Kaapsche Hoop. Avoca.	Mining District of Ottoshoop. Ottoshoop (Old). Ottoshoop (New).  Mining District of Pietersburg. Haenertburg. Leydsdorp. Old Agatha. Selati.  Mining District of Krugersdorp. Krugersdorp. Luipaardsvlei. Lewisham. Kocksoord. Blaauwbank. Randfontein.  Mining District of Boksburg. Boksburg. Boksburg North Extension. Kleinfontein.
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\* This date was 1st January 1909.

## SECOND SCHEDULE.

TABLE A.

The left-hand column indicates the value of a stand as defined by this Act. The first horizontal series of figures represents the various rates of monthly stand licence moneys payable to the Government, either directly or indirectly.

The amount payable under section *nine* sub-section (1) (a) or under section *ten*, sub-section (2) (a) is the amount appearing in the column under the rate of monthly stand licence moneys for any given stand opposite the value of the stand as set out in the left-hand column.

Value.	10d.	1s.	1s. 8d.	1s. 11d.	2s.	2s. 6d.	2s. 11d.	3s. 0d.	3s. 4d.	3s. 9d.	3s. 10d.
	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.
To £100.....	Nil.	Nil.	Nil.	Nil.	Nil.	Nil.	Nil.	Nil.	Nil.	Nil.	Nil.
From £101 to £250.....	0 11 2	0 13 4	1 2 3	1 5 7	1 6 8	1 13 4	1 18 11	2 0 0	2 4 6	2 10 0	2 11 2
From £251 to £350.....	1 2 3	1 6 8	2 4 6	2 11 2	2 13 4	3 6 8	3 17 10	4 0 0	4 8 11	5 0 0	5 2 3
From £351 to £450.....	1 13 4	2 0 0	3 6 8	3 16 8	4 0 0	5 0 0	5 16 8	6 0 0	6 13 4	7 10 0	7 13 4
From £451 to £550.....	2 4 6	2 13 4	4 8 11	5 2 3	5 6 8	6 13 4	7 15 7	8 0 0	8 17 10	10 0 0	10 4 6
From £551 to £650.....	2 15 7	3 6 8	5 11 2	6 7 10	6 13 4	8 6 8	9 14 6	10 0 0	11 2 3	12 10 0	12 15 7
From £651 to £750.....	3 6 8	4 0 0	6 13 4	7 13 4	8 0 0	10 0 0	11 13 4	12 0 0	13 6 8	15 0 0	15 6 8
From £751 to £850.....	3 17 10	4 13 4	7 15 7	8 18 11	9 6 8	11 13 4	13 12 3	14 0 0	15 11 2	17 10 0	17 17 10
From £851 to £950.....	4 8 11	5 6 8	8 17 10	10 4 6	10 13 4	13 6 8	15 11 2	16 0 0	17 15 7	20 0 0	20 8 11
From £951 to £1,050.....	5 0 0	6 0 0	10 0 0	11 10 0	12 0 0	15 0 0	17 10 0	18 0 0	20 0 0	22 10 0	23 0 0
From £1,051 to £1,150.....	5 11 2	6 13 4	11 2 3	12 15 7	13 6 8	16 13 4	19 8 11	20 0 0	22 4 6	25 0 0	25 11 2
From £1,151 to £1,250.....	6 2 4	7 6 8	12 4 6	14 1 2	14 13 4	18 6 8	21 7 10	22 0 0	24 9 0	27 10 0	28 2 4
From £1,251 to £1,350.....	6 13 6	8 0 0	13 6 9	15 6 9	16 0 0	20 0 0	23 6 9	24 0 0	26 13 6	30 0 0	30 13 6
From £1,351 to £1,450.....	7 4 8	8 13 4	14 9 0	16 12 4	17 6 8	21 13 4	25 5 8	26 0 0	28 18 0	32 10 0	33 4 8
From £1,451 to £1,500 and over.....	7 15 10	9 6 8	15 11 3	17 17 11	18 13 4	23 6 8	27 4 7	28 0 0	31 2 6	35 0 0	35 15 10



TABLE A (continued).

Value.	5s. 0d.	5s. 8d.	5s. 9d.	7s. 6d.	8s. 4d.	11s. 3d.	15s. 0d.	22s. 6d.	45s. 0d.
	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.
To £100.....	Nil.	Nil.	Nil.	Nil.	Nil.	Nil.	Nil.	Nil.	Nil.
From £101 to £250.....	3 6 8	3 15 7	3 16 8	5 0 0	5 11 2	7 10 0	10 0 0	15 0 0	30 0 0
From £251 to £350.....	6 13 4	7 11 2	7 13 4	10 0 0	11 2 3	15 0 0	20 0 0	30 0 0	60 0 0
From £351 to £450.....	10 0 0	11 6 8	11 10 0	15 0 0	16 13 4	22 10 0	30 0 0	45 0 0	90 0 0
From £451 to £550.....	13 6 8	15 2 3	15 6 8	20 0 0	22 4 6	30 0 0	40 0 0	60 0 0	120 0 0
From £551 to £650.....	16 13 4	18 17 10	19 3 4	25 0 0	27 15 7	37 10 0	50 0 0	75 0 0	150 0 0
From £651 to £750.....	20 0 0	22 13 5	23 0 0	30 0 0	33 6 8	45 0 0	60 0 0	90 0 0	180 0 0
From £751 to £850.....	23 6 8	26 8 11	26 16 8	35 0 0	38 17 10	52 10 0	70 0 0	105 0 0	210 0 0
From £851 to £950.....	26 13 4	30 4 5	30 13 4	40 0 0	44 8 11	60 0 0	80 0 0	120 0 0	240 0 0
From £951 to £1,050.....	30 0 0	34 0 0	34 10 0	45 0 0	50 0 0	67 10 0	90 0 0	135 0 0	270 0 0
From £1,051 to £1,150.....	33 6 8	37 15 7	38 6 8	50 0 0	55 11 2	75 0 0	100 0 0	150 0 0	300 0 0
From £1,151 to £1,250.....	36 13 4	41 11 2	42 3 4	55 0 0	61 2 4	82 10 0	110 0 0	165 0 0	330 0 0
From £1,251 to £1,350.....	40 0 0	45 6 9	46 0 0	60 0 0	66 13 6	90 0 0	120 0 0	180 0 0	360 0 0
From £1,351 to £1,450.....	43 6 8	49 2 4	49 16 8	65 0 0	72 4 8	97 10 0	130 0 0	195 0 0	390 0 0
From £1,451 to £1,500 and over.....	46 13 4	52 17 11	53 13 4	70 0 0	77 15 10	105 0 0	140 0 0	210 0 0	420 0 0

EXAMPLES.—If a stand in a Government Township is valued at £325 and the monthly stand licence money payable thereon is 7s. 6d. per month, the total sum payable for freehold will be £10. If the value is the same and the licence money is 11s. 3d. per month, the amount payable for freehold will be £15.

If a stand in a semi-Government Township is valued at £325 and the Government's share of the monthly stand licence moneys is 5s. per month, then, after payment of £6. 13s. 4d. in respect of the Government's share, no further sum will be payable in respect of such share, but the share accruing to the township owner will be payable as before.

TABLE B.

As in Table "A", the column headed "Value" indicates the value of a stand as defined by this Act.

The column headed "Number of months" represents the number of months for which Stand Licence Money must be paid under sub-section (1) (b) section *nine* or under sub-section (2) (b) section *ten* before the registered holder becomes exempt from payment to the Government, directly or indirectly, of such monthly Stand Licence Money.

The number of months for which Stand Licence Money must be paid under sub-section (1) (b) section *nine* or under sub-section (2) (b) of section *ten* is the number appearing in the column headed "Number of months" for any given stand shown opposite the value of the stand, as set out in the left-hand column.

Value.		Number of Months.
To £100		Nil.
From £101 to £250		14 months.
£251 to £350		27
£351 to £450		40
£451 to £550		54
£551 to £650		67
£651 to £750		80
£751 to £850		94
£851 to £950		107
£951 to £1,050		120
£1,051 to £1,150		134
£1,151 to £1,250		147
£1,251 to £1,350		160
£1,351 to £1,450		174
£1,451 to £1,500 and over		187

**THIRD SCHEDULE.**

**FORM OF RECEIPT FOR PAYMENT.\***

*The Townships Amendment Act 1908.*

Registered Holder

Stands or Lots

Township of

*The Townships Amendment Act 1908.*

This is to Certify that

the Registered Holder of Stands (or Lots) Nos

in the Township of

the sum of

being the

conversion to Freehold Title of the said Stands (or Lots), together with interest to date

on the outstanding balance, the total conversion price being

Dated at this day of 190.

Total Purchase Price, £

Amount this day paid, £

Noted under section *fifteen*

of the above Act in Bk

fol this day

of 1908.

Signature of Township Owner or other person authorised to receive payments.

(Registrar of Deeds.)

(Mining Commissioner.)

Revenue Stamp duly cancelled according to law.

\* NOTE.—This form must be completed in duplicate for each payment. † The amount must be described fully in words, not in numerals.

## FOURTH SCHEDULE.

SOLEMN DECLARATION OF TOWNSHIP OWNER (UNDER SECTION EIGHTEEN)  
THAT A REGISTERED OWNER OR PURCHASER IS IN ARREARS.

I, \_\_\_\_\_ of the \_\_\_\_\_ do solemnly declare:

(1) That I am the \_\_\_\_\_ of the \_\_\_\_\_ (Company, Limited, and that as such \_\_\_\_\_ I am in control of the collection of Stand Licence Moneys and of the Books of Account thereof for the Township of \_\_\_\_\_

(2) That \_\_\_\_\_ the Registered Holder of Stand/Lot No. \_\_\_\_\_ in the said Township, has not paid either directly or indirectly any instalments of Purchase Price, Stand Licence Moneys, or Rentals\* which are due since the \_\_\_\_\_ day of \_\_\_\_\_, 190\_\_\_\_, and that according to the conditions of the Lease under which the said \_\_\_\_\_ holds the said Stand, a copy of which is hereto attached, the said \_\_\_\_\_ Company, Limited, is entitled to cancel the said Lease.

Declared before me at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 190\_\_\_\_

*Justice of the Peace.*

NOTE.—If instalments of Purchase Price are in arrear the following paragraph shall be substituted for paragraph (2):—

That \_\_\_\_\_, the Registered Holder of Lot No. \_\_\_\_\_, in the said Township, has not paid either directly or indirectly any instalments of Purchase Price due since the \_\_\_\_\_ day of \_\_\_\_\_, 190\_\_\_\_, and that according to the terms of the Agreement under which the said \_\_\_\_\_ is entitled to obtain freehold of the said lot, a copy of which is hereto attached, the said \_\_\_\_\_ Company, Limited, is entitled to cancel the said Agreement.

\* Delete "Purchase Price", "Stand License Moneys", and "Rentals" when ever inapplicable.

## FIFTH SCHEDULE.

AGREEMENT OF PURCHASE IN FREEHOLD (UNDER SECTION THIRTY-TWO) OF A STAND  
IN THE TOWNSHIP OF BURGHERSDORP, JOHANNESBURG.

I, \_\_\_\_\_, being one of the persons described in section *thirty-two* of the Townships Amendment Act, 1908, do hereby agree with the Government of the Transvaal, herein represented by \_\_\_\_\_ the Mining Commissioner at Johannesburg, for the purchase of Stand No. \_\_\_\_\_ in the Township of Burghersdorp for the sum of £ \_\_\_\_\_ payable as in the said Act provided, the first payment to become due on the first day of \_\_\_\_\_ 190\_\_\_\_

I, \_\_\_\_\_ the Mining Commissioner, do hereby on behalf of the Government of the Transvaal, approve of and agree to the sale of the said Stand No. \_\_\_\_\_ to the said \_\_\_\_\_ for the sum of £ \_\_\_\_\_ payable as above set forth.

Dated at Johannesburg this \_\_\_\_\_ day of \_\_\_\_\_ 190\_\_\_\_

## SIXTH SCHEDULE.

FORM OF RECEIPT UNDER SECTION THIRTY-FIVE IN RESPECT OF  
VREDEDORP TOWNSHIP.

THIS IS TO CERTIFY that the Standholder of Stand No. \_\_\_\_\_ in the Township of Vrededorp has paid to the Municipal Council of Johannesburg—

- (a) all stand licence moneys in arrear in respect of such stand up to the date of payment of the first instalment of the purchase price of the freehold;
- (b) all charges due to the said Council for sanitary service which have become chargeable as from the 1st January, 1903;
- (c) all charges due to the said Council for the supply of water, gas, or electricity and for all other municipal service in respect of such stand; and
- (d) all assessment rates due in respect of such stand.

AND FURTHER, that the said Standholder has paid to the said Municipal Council the sum of \_\_\_\_\_ pounds, being \_\_\_\_\_ instalment of the price of the Freehold Title to the said Stand No. \_\_\_\_\_, the total price of such Freehold being fifteen pounds sterling, together with interest on the portion or portions of the said purchase price unpaid from time to time in terms of the Vrededorp Stands Act 1907.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 1908.

*Town Treasurer of Johannesburg.*

Total purchase price of Freehold ..... £15 0 0  
Amount paid inclusive of the instalment hereby certified.....

## SEVENTH SCHEDULE.

## DESCRIPTION OF "PROSPECT TOWNSHIP".

That portion of the proclaimed farm Doornfontein No. 140, District Witwatersrand, Mining District of Johannesburg, included with in the lines joining the following beacons, viz. :—  
Beacon D502, D505, D504, D528, D175, D41, D74, J4, D179, D529, D177, and D502 on the said farm Doornfontein No. 140.

## EIGHTH SCHEDULE.

DESCRIPTION OF AREA COMPRISING BRICKFIELDS TO BE TRANSFERRED TO THE  
COUNCIL OF THE MUNICIPALITY OF KRUGERSDORP UNDER SECTION FORTY-SIX.

Beginning at Beacon B72 at the south-westerly corner of the farm Paardeplaats No. 73, District Witwatersrand; thence in an easterly direction along the southerly boundary of the said farm to the

easterly side of Burgers Street ; thence in a northerly direction along the easterly side of Burgers Street to a point where the southerly boundary of Wagen Street, if extended, would meet the easterly boundary of Burgers Street ; thence along the southerly side of Wagen Street to its intersection with the westerly side of Oven Street ; thence along the westerly side of Oven Street to the north-east corner of Bewaarplaats No. 8 ; thence along the northerly boundaries of Bewaarplaats No. 8, Brickmaking Site No. 8, and Bewaarplaats No. 7 ; and continuing in the same line to the westerly side of Mijn Street ; thence in a southerly direction along the westerly side of Mijn Street to its intersection with the boundary between the farm Paardeplaats and the farm Waterval No. 124, District Witwatersrand ; thence in a southerly direction along the last-mentioned boundary to Beacon B72, the place of beginning.

**NINTH SCHEDULE.**

DESCRIPTION OF AREA COMPRISING "THE OLD BRICKFIELDS" TO BE TRANSFERRED TO THE COUNCIL OF THE MUNICIPALITY OF KRUGERSDORP UNDER SECTION FORTY-EIGHT.

That portion of an area of land situated on the farm Paardekraal No. 73, District Witwatersrand, known as the "Old Brickfields", situate on the east of the continuation of Market Street in the town of Krugersdorp and between the Stand Township of Krugersdorp on the south and Erven Nos. 124-135 in the District Township of Krugersdorp on the north and extending along the Spruit in an easterly direction, approximately 3,100 feet, from the said continuation of Market Street between the Stand and Erven Township of Krugersdorp, and which area has been divided into brickmakers' stands, Nos. 1 to 48 inclusive, as shown by a plan dated 13th October, 1897, signed by J. J. W. van Staveren, and now filed under No. 251 in the Office of the Registrar of Mining Rights.

**TENTH SCHEDULE.**

CERTIFICATE OF TOWNSHIP TITLE UNDER SECTION FIFTY OF THE TOWNSHIPS AMENDMENT ACT 1908.

KNOW ALL MEN WHOM IT MAY CONCERN :

Whereas \_\_\_\_\_  
is the Registered Owner of \_\_\_\_\_  
(here describe the land held under his Title Deeds) held by him under Deed of Transfer (or Grant) No. \_\_\_\_\_  
dated \_\_\_\_\_ ; and

Whereas he has laid out a township called the Township of \_\_\_\_\_  
upon a portion of the said land hereinafter described : and

Whereas under the provisions of section fifty of the Townships Amendment Act 1908 it is necessary that this certificate be issued in respect of the said portion ;

Now therefore, I, the Registrar of Deeds, do hereby certify that the said \_\_\_\_\_  
is the registered owner of \_\_\_\_\_ (here describe the portion)  
now known as the Township of \_\_\_\_\_ measuring \_\_\_\_\_

\_\_\_\_\_ as will more fully appear from the Diagram  
S.G. No. \_\_\_\_\_ hereunto annexed framed by Surveyor \_\_\_\_\_  
in \_\_\_\_\_ and approved/confirmed by the Surveyor-General on the  
\_\_\_\_\_ day of \_\_\_\_\_ 190\_\_\_\_, and subject to such  
conditions as are mentioned or referred to in the said Deed of Transfer (or Grant), and to the provisions  
of the Townships Amendment Act 1908.

And that by virtue of these presents the said \_\_\_\_\_  
his heirs, executors, administrators or assigns now is and henceforth shall be entitled thereto conformably  
to local custom, Government, however, reserving its rights.

In witness whereof I, the said Registrar, have subscribed to these presents and have caused my  
Seal of Office to be affixed thereto.

Thus done and executed at the Office of the Registrar of Deeds, Pretoria, on the \_\_\_\_\_  
day of \_\_\_\_\_ in the year of Our Lord One thousand Nine hundred and \_\_\_\_\_

\_\_\_\_\_  
Registrar of Deeds.  
Registered in the Register of \_\_\_\_\_ kept at Pretoria  
book \_\_\_\_\_, page \_\_\_\_\_, on the above date.

NOTE.—Where the land comprised in the Township is subject to any special conditions or  
servitudes, such conditions or servitudes shall be set out in this Certificate.

**ELEVENTH SCHEDULE.**

CERTIFICATE OF CONVERSION TO FREEHOLD TITLE.

I \_\_\_\_\_ the Registrar of Deeds  
(or Rand Townships Registrar) do hereby certify that \_\_\_\_\_  
of \_\_\_\_\_ of the \_\_\_\_\_  
of \_\_\_\_\_ in \_\_\_\_\_  
(State profession or occupation.)

is the owner under the provisions of the Townships Amendment Act 1908 of the freehold of Lots numbered \_\_\_\_\_

in the Township of \_\_\_\_\_ according to a  
General Plan S.G. No. \_\_\_\_\_ of the said Township of \_\_\_\_\_  
framed by \_\_\_\_\_ Surveyor \_\_\_\_\_

in \_\_\_\_\_ and approved and confirmed by the Surveyor-General on the  
\_\_\_\_\_ day of \_\_\_\_\_ 190\_\_\_\_, subject to the provisions of the  
said Townships Amendment Act 1908 and to the special encumbrances endorsed hereon and to conditions  
numbered \_\_\_\_\_ in the Twelfth Schedule to the said Act.

AND that by virtue of these presents the said \_\_\_\_\_  
his heirs, executors, administrators and assigns, now is and henceforth shall be entitled thereto, conformably  
to local custom, Government, however, reserving its rights.

IN WITNESS WHEREOF I, the said Registrar, have subscribed to these presents and caused my Seal  
of Office to be affixed thereto.

THUS DONE and executed at the Office of the Registrar of Deeds (Rand Townships Registrar)  
\_\_\_\_\_ on this the \_\_\_\_\_ day of \_\_\_\_\_

\_\_\_\_\_ in the year of Our Lord One thousand Nine hundred and \_\_\_\_\_

\_\_\_\_\_  
Registrar of Deeds.  
(Rand Townships Registrar.)

## TWELTH SCHEDULE.

## FORM OF RECEIPT UNDER SECTION SIXTY-NINE.

I, \_\_\_\_\_ Mining Commissioner, do hereby certify that \_\_\_\_\_ the registered holder of \_\_\_\_\_ Stand/Lot No. \_\_\_\_\_ in the Township of \_\_\_\_\_ has paid the full amount of purchase price of the freehold of the said Stand/Lot and is entitled to a certificate of freehold title to the said Stand/Lot upon the lodging by the township owner of an approved or confirmed diagram of the said Township of \_\_\_\_\_ subject to the conditions of the Townships Amendment Act 1908.  
Dated at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ 190\_\_\_\_\_

\_\_\_\_\_  
*Mining Commissioner.*

**Provisions of Section sixty-eight of Act No. 35 of 1908 not to be deemed to have Amended the Principal Law.**

2. Nothing in sub-section (1) of section *sixty-eight* of the Percious 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).

(The rest repealed by Ordinance 6 of 1912.)

**No. 1 of 1911.—Appropriation (1910-1911).**

**No. 2 of 1911.—Appropriation (Part) (1911-1912).**

**No. 3 of 1911.—Appropriation (1911-1912).**

**No. 4 of 1911.—Additional Appropriation (1911-1912).**

**No. 5 of 1911.—Amends the Education (Language) Act.**

**No. 6 of 1911.—Roads Amendment.—Repealed by Ordinance No. 5 of 1912.**

**No. 7 of 1911.—Assented to 19th October, 1911.**

## A PRIVATE ORDINANCE

**To Confer Further Powers upon the Council of the Municipality of Germiston.**

Whereas it is desirable to make further provision with regard to the borrowing powers of the council of the municipality of Germiston:

And whereas it is desirable to authorize the said council to raise by the issue of stock and otherwise a sum of four hundred thousand pounds sterling for the purposes of the said municipality as hereinafter set forth:

And whereas it is desirable to confer further powers upon the said council:

BE IT ENACTED by the Provincial Council of Transvaal with the assent of the Governor-General-in-Council as follows:—

**Interpretation of Terms.**

1. In this Ordinance unless the context otherwise requires—

"Administrator" means the officer for the time being executing the office and functions of Administrator of the Province of Transvaal acting by and with the advice of the Executive Committee of the said Province;

"council" means the council of the municipality of Germiston as by law established;

"municipality" means the municipality of Germiston as constituted for the time being;

"owner" shall include any person receiving the rent or profits of any land or premises from any tenant or occupier thereof or who would receive such rent or profits if such land or premises were let whether on his own account or as agent for any person entitled thereto or interested therein;

"street" includes any road, street, square or thoroughfare vested in the council under the Municipal Corporations Statutes 1903-1906;

"Town Engineer" means the person for the time being lawfully acting in the capacity of town engineer of the municipality.

**Section sixty-five of the Municipal Corporations Ordinance, 1903, not to Apply.**

2. Section *sixty-five* of the Municipal Corporations Ordinance 1903 shall from the date of the coming into operation of this Ordinance cease to apply to the council; provided, however, that nothing in this Ordinance contained shall affect anything duly done or any liability duly incurred by the council under the provisions of the said section and any agreement duly entered into by the council under the said provisions shall remain of full force and effect.

**Power to Raise Moneys subject to the Provisions mutatis mutandis of the Johannesburg Municipality Borrowing Powers Ordinance 1903.**

3. The council is hereby empowered to raise moneys by the issue of stock or bills for the purposes of the municipality subject to the provisions *mutatis*

*mutandis* of the Johannesburg Municipality Borrowing Powers Ordinance 1903, and all the provisions of the said Ordinance not including the provisions of any Ordinance by which the said Ordinance has been amended shall apply to the council as if they were herein re-enacted in such terms and with such modifications as are necessary to make them applicable to the council; provided that for the purpose of this Ordinance sub-section (1) of section *fifty-two* of the said Ordinance shall be deemed to be amended by the deletion therefrom of the words "or extend for a period of more than ninety days" and the substitution for such words of the words "or except with the sanction of the Administrator extended for a period of more than six months".

**Authority to Raise Four Hundred Thousand Pounds for Purposes Specified in the Schedule.**

4. The council is hereby authorized to raise by the issue of stock or bills subject to the provisions of the preceding section the amount of four hundred thousand pounds sterling for the purposes set forth in the Schedule to this Ordinance and the stock issued in pursuance of this authority shall be redeemable within a period of thirty years from the issue thereof. The authority hereby conferred shall be deemed to be an authority conferred in accordance with the provisions of section *three* of the Johannesburg Municipality Borrowing Powers Ordinance 1903 as applied to the council and no further authority for the raising of the said amount shall be required under the said section.

**Application of Amount Raised in Pursuance of Preceding Section.**

5. The council shall apply the amount raised in pursuance of the authority conferred by section *four* of this Ordinance in accordance with the said Schedule for the purposes therein described in such order and at such times as the council may determine, provided that the council may, subject to the approval of the Administrator, vary the distribution of the amounts specified in the Schedule between the different purposes therein described and may further, subject to the like approval, apply any portion of the amounts specified in the said Schedule for purposes other than the purposes therein described.

**The Council may Enter into Contracts for the Purchase of Power and other Purposes.**

6. The council may with the approval of the Administrator enter into contracts with the holder of any licence granted under the Power Act 1910 of the Transvaal or any amendment thereof or any law substituted therefor—

- (a) for the purchase of power from such holder for the purpose of any municipal undertaking;
  - (b) for the lighting of the streets and public places of the municipality by such holder;
  - (c) for granting to such holder the right to supply light or power to any land or premises within the municipality;
- and the provisions of section *twenty-four* of the Municipal Corporations Ordinance 1903 shall not apply to any such contract.

**Power at the Request of the Owner to Execute Drainage Work on Private Premises and Construct Kerbs, Gutters, and Footways on Portion of Streets Abutting on such Premises and to Recover the Expense or Make Advances to the Owner of any Premises of the Amount of Expenses to be Incurred in such Works.**

7. (1) The council may in its discretion at the request of the owner of any land or premises situated within the limits of the municipality—

- (a) carry out either by its own servants or through contractors any work in connection with the installation or improvement of any drainage or sewerage system on such land or premises and the connection of such land or premises with the council's drains or sewers and recover from the owner of such land or premises the expenses incurred in such work including a reasonable charge for supervision, and if the work is undertaken by the council without the interposition of a contractor may recover charges for the use of tools and plant;
- (b) construct in such manner of such breadth and with such material as the council may think fit, either by its own servants or through contractors, kerbs, gutters and footways along the side of any street abutting upon the land or premises of any such owner, and recover from such owner the expenses incurred in such work including a reasonable charge for supervision and if the work is undertaken by the council without the interposition of a contractor recover charges for the use of tools and plant;
- (c) advance to the owner of any land or premises the amount of any expenses incurred or to be incurred by him in the execution of any such drainage or sewerage work or the construction of any such kerb, gutter or footway, on or in respect of such land or premises.

(2) The council may agree to accept payment of such expenses and repayment of such advances in such instalments at such times and on such conditions as may to the council appear reasonable together with interest thereon at

a rate not exceeding eight per centum per annum (which shall be charged from the date when the works are completed or the advances made) on such amount as remains for the time being outstanding.

(3) Such expenses and advances together with the interest thereon shall be a charge upon the land or premises in respect of which the same are incurred or made, and shall be paid to the council by the owner, and the same or the instalments thereof as they fall due respectively, shall be recoverable from the owner for the time being, or any future owner, of such land or premises in any competent court.

(4) The council shall keep at the municipal offices a register of all expenses incurred and advances made under this section and shall show in such register the total amounts thereof, the instalments (if any) in which the same are payable, the premises in respect of which the same have been incurred or made and the balances for the time being outstanding and shall keep such register open at all reasonable times for the inspection of any person free of charge, such register and any extract therefrom certified by the town clerk, or other person authorized by the council shall in any proceedings for the recovery of such expenses or advances or any interest due thereon or any instalments thereof be *prima facie* evidence of the matters therein contained.

(5) No transfer or cession of any land or premises situate within the municipality shall be passed before any registration officer until there shall have been produced to him a receipt or certificate signed by the town clerk, or other person authorized by the council, showing that all or any sums due on account of any expenses incurred or advances made by the council under this section in respect of such land or premises together with any interest due on the amount of such expenses or advances have been paid.

(6) Nothing in this section shall limit or affect the power of the council to execute any work which the council is by law, or under any by-law in force in the municipality, empowered to execute or to recover the cost of executing such work from any person who is liable therefor.

#### **Power to Compell Connection with and Make Charges for the Use of Sewers.**

8. (1) The council may compel the connection at the owner's expense of any land or premises with the Council's drains or sewers subject to the provisions of any by-laws or regulations made under section *nine* of this Ordinance or under the Municipal Corporations Statutes 1903-1906.

(2) The council shall have power to make such charges as may be fixed by by-laws or regulations for the use of the council's drains, sewers or sewerage works in respect of any land or premises which are connected therewith and such charges shall for all purposes be deemed to be charges for sanitary services, and shall be recoverable as such subject to the provisions of the Municipal Corporations Statutes, 1903-1906, from the owner of any premises which are so connected.

#### **Power to Make By-laws.**

9. (1) In addition to any by-laws or regulations which the council has power to make under the Municipal Corporations Statutes 1903-1906 the council shall have power to make, alter and revoke by-laws or regulations for any of the following purposes:—

(a) For regulating sewerage and drainage and for compelling the connection at the owner's expenses of any land or premises with the council's drains or sewers and for regulating the construction by the council of all drains required for the purpose of such connection in so far as they connect with and extend from the main sewer to the boundary of the property concerned and for fixing the charges which may be recovered by the council from the owner for any such work; provided that where the main sewer is not laid in the centre of a street the owners of land or premises on either side of such street may be required to pay for such work such amounts as would have been payable by them if the sewer had been so laid, but in no case shall the owner of any land or premises be required to pay more for such work than would have been payable by him if the sewer had been so laid.

(b) For providing that where in the opinion of the council greater expense would be incurred in connecting the drains of two or more properties abutting on any street with the sewer in such street than in constructing a combined drain for the use of such properties collectively the council may construct such combined drain from the sewer and connect the drains of such property therewith, and may recover from the owners of any land or premises which may be connected or should in the opinion of the town engineer be connected with such combined drain such proportion of the expenses of construction as the town engineer may certify to be fairly chargeable to such land or premises together with the cost of connecting the same with such combined drain.

(c) For regulating the giving of notice and the deposit of plans and sections by persons intending to carry out any drainage or sewerage work

on any land or premises and the approval or disapproval thereof by the council and the removal or alteration of any drainage or sewerage work begun or done in contravention of any by-law or regulation of the council and for the charging of fees for the examination of such plans.

(d) For fixing the charges which may be made for the use of the council's drains, sewers or sewerage works in respect of any land or premises which are connected therewith.

(e) For regulating the construction of kerbs, gutters or footways by the owner of any land or premises who undertakes such work on any portion of a street abutting on such land or premises and for regulating the construction by the council at the request of any owner of land or premises and at his expenses of kerbs, gutters or footways in any portion of a street abutting on such land or premises and for fixing the charges which may be made by the council for any such work.

(2) No such by-law or regulation shall be contrary to the provisions of this Ordinance or of the Municipal Corporations Statutes 1903-1906 or of any other law in force within the municipality.

(3) The provisions of the Municipal Corporations Statutes 1903-1906 with respect to by-laws or regulations which may be made thereunder shall apply with respect to any by-law or regulation which may be made under this section in the same way as if power to make such by-law or regulation were conferred by the said Statutes.

#### Savings of Rights of the Crown.

10. Nothing in this Ordinance contained shall in any way affect the rights of His Majesty the King, his heirs and successors, or of any person except such as are mentioned in this Ordinance, and those claiming by, from, and under them.

#### Title and Date of Coming into Operation.

11. This Ordinance may be cited as the Germiston Municipal Private Ordinance 1911 and shall come into operation on the date of its publication as an Ordinance in the *Provincial Gazette*.

#### SCHEDULE.

	£	s.	d.
Tramway scheme.....	106,690	0	0
Sewerage scheme.....	142,320	0	0
Sewerage connections—			
(Fund for providing advances and expenses recoverable from owners).....	20,000	0	0
Kerbs, gutters, and footways—			
(Fund for providing advances and expenses recoverable from owners).....	6,150	0	0
Storm water drainage.....	39,960	0	0
Repayment of loans from Government.....	40,000	0	0
Bridges and other public works and expenses of flotation of loan.....	44,880	0	0
	£400,000	0	0

No. 1 of 1912.—Appropriation (Part) (1912-1913).

No. 2 of 1912.—Second Appropriation (Part) (1912-1913).

No. 3 of 1912.—Pretoria Municipal Private.—*Repealed by Ordinance No. 4 of 1928.*

No. 4 of 1912.—Appropriation (1912-1913).

No. 5 of 1912.—Roads.—*Repealed by Ordinance No. 9 of 1933.*

No. 6 of 1912.—Local Authorities Rating.—*Repealed by Ordinance No. 13 of 1928.*

No. 7 of 1912.—Education Act Further Amendment.

No. 8 of 1912.—Municipal Elections.—*Repealed by Ordinance No. 4 of 1927.*

No. 9 of 1912.—Local Government.—*Repealed by Ordinance No. 11 of 1926.*

No. 1 of 1913.—Additional Appropriation (1912-1913).

No. 2 of 1913.—Appropriation (Part) (1913-1914).

No. 3 of 1913.—Religious Performances Prevention.—*Repealed by Ordinance No. 1 of 1920.*

No. 4 of 1913.—Appropriation (1913-1914).

No. 5 of 1913.—Additional Appropriation (1913-1914).

No. 6 of 1913.—Motor Car.—*Repealed by Ordinance No. 6 of 1915.*

No. 7 of 1913.

[Assented to 31st October, 1913.]

#### To Amend the Law Relating to Pounds.

BE IT ENACTED by the Provincial Council of Transvaal as follows:—

#### PRELIMINARY.

#### Interpretation of Terms.

1. In this Ordinance, unless inconsistent with the context

“Administrator” shall mean the officer appointed under sub-section (1) of section *sixty-eight* of the South Africa Act or any amendment thereof acting on the authority of the Executive Committee of the Province.



"entire" shall mean the male of any large or small stock capable of performing the procreative act.

"large stock" shall mean all equines, bovines, and their hybrids.

"magistrate" shall mean the magistrate of the district and in the case of a detached sub-district the detached assistant magistrate thereof, and shall include the person for the time being lawfully acting in the aforesaid capacities.

"municipality" shall mean the area or district placed under the control of a town or village council or health committee established under the provisions of the Local Government Ordinance 1912, or any other law amending the same or substituted therefor.

"owner of land" shall mean and include owner, lessee or lawful occupier of any land or their duly authorized agents.

"owner of stock" shall mean the owner or person having possession of any stock, or the agent or caretaker for the owner.

"pound" shall mean any pound established under the provisions of this Ordinance.

"poundmaster" shall mean any person appointed as such under this Ordinance or any person acting with his authority or on his behalf.

"small stock" shall mean goats and sheep.

"stock" shall include all large and small stock and domesticated ostriches.

"township" shall mean any area of land which has been divided into lots exceeding fifteen in number arranged so as to be intersected or connected by or to abut on streets, thoroughfares, squares or open spaces within such area.

#### **Ordinance Inapplicable to Municipalities.**

2. This Ordinance shall not apply to any pounds established nor to land situated within the boundaries of any municipality.

### **CHAPTER I.**

#### **ESTABLISHMENT OF POUNDS.**

##### **Locality of Pounds.**

3. Pounds may be established by the Administrator at such places as he may deem fit, provided that no pound shall be established within a distance of eighteen miles from another pound, unless special circumstances shall in the opinion of the Administrator warrant the establishment of a pound nearer than eighteen miles from another pound, provided however that in case the Administrator shall receive a written request from the local authority of any municipality situated more than six miles from any pound of from not less than six bona-fide farmers and stock owners owning or occupying land in the neighbourhood of any such municipality for the establishment of a pound in that neighbourhood, but outside the municipal area, the Administrator shall thereupon, provided a person can be found competent and willing to act as pound-master, and owning or occupying sufficient and suitable land for that purpose in that neighbourhood, establish a pound in that neighbourhood, and appoint such person as poundmaster. The establishment of any pound shall be notified in the *Provincial Gazette*.

##### **Pounds Established before Passing of this Ordinance.**

4. All pounds duly established under Law No. 2 of 1882, or any amendment thereof, at the commencement of this Ordinance shall be deemed to have been established under this Ordinance, and shall be subject to the provisions thereof and to any regulations made thereunder.

##### **Disestablishment of Pounds.**

5. The Administrator may disestablish any pound, and notice of such disestablishment shall be given in the *Provincial Gazette*.

### **CHAPTER II.**

#### **APPOINTMENT AND DUTIES OF POUNDMASTERS.**

##### **Appointment of Poundmasters.**

6. Poundmasters shall be appointed by and hold office during the pleasure of the Administrator, and shall furnish such security as may be required by the Administrator for the due performance of the duties prescribed by this Ordinance and for the payment to the provincial revenue fund of all moneys accountable by them under this Ordinance. Poundmasters appointed under the provisions of Law No. 2 of 1882, or any amendment thereof, shall be deemed to have been appointed under this Ordinance.

**Poundmaster to Receive Stock Legally Tendered.**

7. It shall be the duty of every poundmaster to receive into a pound established under Chapter I of this Ordinance all stock legally tendered between the hours of sunrise and sunset, and any poundmaster who refuses to take into custody such stock shall be guilty of an offence and liable on conviction to the penalties hereinafter prescribed.

**When Infected Animals Impounded.**

8. It shall be the duty of every poundmaster in the event of his having reasonable grounds for suspecting that any impounded animal is suffering from any disease defined under the Diseases of Stock Act (Act No. 14 of 1911), or any other law amending the same or substituted therefor, to isolate such animal and report his suspicion to the officer in charge of police at the place where the magistrate's court is held pending receipt of instructions from a Government veterinary officer as to its treatment or disposal.

**Establishment and Maintenance Charges, Erection of Enclosures, etc.**

9. The poundmaster shall bear all expenses connected with the establishment and maintenance of the pound, and shall keep the pound in proper order to the satisfaction of the Administrator. He shall erect and as far as possible maintain free from infection separate and suitable kraals of horses, for cattle, for ostriches, for sheep and goats; a separate kraal shall also be provided for entire animals. Provided that the Administrator may authorize a poundmaster to maintain a lesser number of such enclosures.

**Isolation of Infected Animals, Dipping, etc.**

10. Poundmasters shall provide separate accommodation for animals suffering from any contagious or infectious disease. Whenever any impounded stock require to be dipped, dressed, inoculated, treated or sprayed in accordance with any instructions which he may receive from a Government veterinary officer, inspector of sheep or other person duly authorized by law on that behalf, the poundmaster shall, on receipt of such instructions, carry out the work and discharge the obligations devolving on the owner of the animal under the Diseases of Stock Act (Act No. 14 of 1911), or any other law amending the same or substituted therefor or any regulation or order framed thereunder.

**Poundmaster Responsible for Stock and Liable for Damage.**

11. Every poundmaster shall be responsible for the proper care of and provision for any stock impounded, and shall be liable to the owner for any damage or injury sustained by reason of any neglect or default. Any poundmaster who contravenes the provisions of this section shall be guilty of an offence and shall on conviction be liable to the penalties hereinafter prescribed in addition to any civil remedy which the owner may have.

**Impounded Animals not to be Worked or Used.**

12. Any poundmaster who shall work or use any impounded animal, or permit such animal to be worked or used, shall be guilty of an offence and for every such offence be liable on conviction to the penalties hereinafter prescribed.

**Receipt for Impounded Animals.**

13. Every poundmaster shall give to the person delivering animals into his charge a receipt in the form prescribed by the Administrator setting forth the number and description of animals so delivered, and specifying the trespass or damage for which the animals are alleged to be impounded. A copy of each receipt shall be retained by the poundmaster.

**Death or Injury of Impounded Animal.**

14. In case of the death or injury of any impounded animal the poundmaster shall enter in his pound-book a description of that animal and the cause of its death or injury.

**Where Owner of Impounded Stock is Known to Poundmaster.**

15. Whenever the owner of any impounded stock is known to the poundmaster he shall send through the post or otherwise a written notice addressed to that owner at his place of residence, informing him of the fact that the said stock has been impounded.

**Poundmaster to Keep Copy of Ordinance and Regulations.**

16. Every poundmaster shall have and preserve a copy of this Ordinance in English and Dutch, together with a copy of any regulations framed thereunder and same shall at all reasonable times be open to the public for reference.

**Pound-book to be Kept.**

17. Every poundmaster shall keep a pound-book, the entries in which shall be made immediately upon the receipt of any stock in such manner as the

Administrator may by regulation prescribe, and such book shall be kept in the form prescribed by the Administrator.

**Pound-book to be Open for Inspection—Fees.**

\*18. Every pound-book shall be kept at the residence of the poundmaster and shall be at all times open for the inspection of a magistrate, a receiver of revenue, any person duly authorized thereto by the Provincial Secretary or the Magistrate, an inspector of stock or any member of the police force free of charge. The book shall at all reasonable times be open to the public for reference upon payment of a fee of sixpence and every poundmaster shall grant to every interested person demanding the same extracts signed by himself from the pound-book on payment of one shilling for each extract not exceeding one hundred words and sixpence for every subsequent one hundred or part of one hundred words.

**Refusal of Inspection of Pound-book.**

19. Every poundmaster who shall refuse to allow his pound-book or copy of this Ordinance to be inspected or referred to by any person legally entitled to do so and on payment of the prescribed fee, if any, shall be guilty of an offence and shall be liable on conviction to the penalties hereinafter prescribed.

**Falsification of Pound-book—Penalties.**

20. Every poundmaster who shall

- (1) knowingly make a false entry in his pound-book;
- (2) fraudulently destroy or erase any entry already made; or
- (3) wilfully deliver to any person a false copy or extract from his pound-book,

shall be guilty of an offence and shall on conviction be liable to a penalty for each offence not exceeding twenty-five pounds, or in default to imprisonment with or without hard labour for a period not exceeding three months.

**Pound-book to be Produced at Sales.**

21. The poundmaster shall take his pound-book with him to every sale of animals impounded in his pound, and such book shall be open at the place of sale free of charge to all persons desirous of referring to it.

**Extracts of Pound-book to be Forwarded to Police.**

22. Every poundmaster shall forward to the nearest police post in his district and to such person as the Administrator may direct each week an extract from his pound-book showing the entries during the preceding seven days.

**Absence of Poundmaster.**

†23. No poundmaster shall absent himself from his pound without providing a responsible person to act on his behalf during such absence. The poundmaster shall be responsible for the conduct of such person in the observance of the duties of a poundmaster and liable as if he had been present in person. Any poundmaster contravening the provisions of this or the two preceding sections shall be guilty of an offence and liable to the penalties hereinafter prescribed.

IMPOUNDMENT OF STOCK.

**Owner of Land may Impound Stock Trespassing.**

‡24. Any owner of land shall be empowered to impound stock found trespassing on his land at the time. All stock must be sent to the nearest pound by the shortest practicable road. Provided always that—

(a) If under the Diseases of Stock Act No. 14 of 1911 or any other law or any legal order or regulation made thereunder the movements of any kind of stock are so restricted as to render it illegal to send such stock to the nearest pound any such stock may be sent to the nearest pound which may be reached without contravening such law, order, or regulation.

(b) If the way to the nearest pound be impassable or dangerous by reason of the flooding of a river or water-course the stock may be sent to the nearest pound which can be reached without crossing such river or water-course.

**Exemption of " Travelling " Stock.**

25. The stock belonging to a traveller on any outspan beaconed off or in existence according to law shall not be deemed to be trespassing save as provided in section *forty-four* of the Roads Ordinance, 1912.

**Detention of Stock prior to Impoundment.**

§26. Except in areas in which special regulations or orders affecting the movement of any particular species of stock have been put into force under

\* As amended by section *one* of Ordinance No. 4 of 1922.

† As amended by section *two* of Ordinance No. 4 of 1932.

‡ As amended by section *three* of Ordinance No. 4 of 1932.

§ As amended by section *four* of Ordinance No. 4 of 1932.

the Diseases of Stock Act (Act No. 14 of 1911) or any other law amending the same or substituted therefor and in accordance with the provisions of those regulations or orders, no person shall detain for a longer period than twenty-four hours any stock he has taken for the purpose of impoundment. For the purposes of this section any person who seizes and/or detains stock shall be deemed to have taken such stock for the purposes of impoundment and no such detention of stock shall be for longer than twelve hours without a sufficient supply of food and water. Any person contravening the terms of this section shall be guilty of an offence and shall on conviction be liable to the penalties hereinafter prescribed.

**Damage by Stock Found Trespassing.**

\*27. (1) Whenever any damage shall have been occasioned by the stock to be impounded the person injured shall, unless he mutually agrees with the owner of the stock as to the amount of damage occasioned have the right to have such damage assessed within twenty-four hours by a field cornet or pound master, if easily available, or by two impartial independent witnesses, who shall be entitled to such costs as the Administrator may by regulation prescribe; provided that if the owner of the stock is available he shall have the right to nominate one of the two impartial independent witnesses herein referred to, but in the event of the person injured and the owner of the stock not being able to agree in this manner, those two persons nominated shall call in a third person, whose decision shall be final.

(2) If the amount of damage, costs and trespass fees, as prescribed in this Ordinance be not satisfied the person injured shall transmit a written statement of the damage to the poundmaster with the impounded stock.

(3) Whenever the owner of the stock shall not agree with the valuation of the damage and costs assessed as aforesaid he may apply to the magistrate or any justice of the peace or commissioner of oaths of the district where the trespass took place to appoint two persons for the purpose of making a fresh valuation and apportioning the costs for same. Provided that such re-valuation shall take place within seventy-two hours after the trespass. The decision of such persons shall be final.

(4) Notwithstanding anything to the contrary in this Ordinance contained an owner of land shall be entitled to claim in addition to any other amount provided for in this section and to recover from the owner of stock to be impounded trespassing fees according to the following scale:—

For every head of large stock	{ on fenced lands ... .. 1s.
	{ on unfenced lands ... .. 9d.
	{ on open veld ... .. 6d.
For every head of small stock	{ on fenced lands ... .. 2d.
	{ on unfenced lands or open veld 1d.

**Driving Fees and Payment of Damages.**

†28. When any stock shall be impounded in accordance with the provisions of section *twenty-four* of this chapter the poundmaster shall forthwith pay to the person lawfully in charge of the impounded stock the driving fees prescribed in sub-section (c) of section *thirty-four* of Chapter IV, but damages shall be paid when the stock is released or later from the proceeds of sale of the impounded stocks so far as is available; provided that in the case of donkeys the Administrator may from time to time by notice in the *Provincial Gazette* determine that no such driving fees shall be payable in any such district or districts or portion thereof as he may in his discretion decide.

**Ill-treatment of Stock Found Trespassing.**

29. Any person who shall work, use, harass, ill-treat or overdrive any stock found trespassing on his land or being sent to the pound, or permit any other person so to do shall be guilty of an offence and liable to the penalties hereinafter prescribed.

**Owner of Trespassing Stock may Apply for its Release prior to Impoundment.**

‡30. (1) Whenever the owner of any stock liable to impoundment shall apply to the owner of land on whose property the said stock has been found trespassing for the release thereof before removal to the pound and shall tender to the said owner for trespass fees an amount being equal to one-half of the amount of the pound fees prescribed in section *thirty-four* plus the additional trespassing fees according to the scale prescribed in sub-section (4) of section *twenty-seven*, provided the amount so tendered be not in any case less than two shillings and sixpence and of any damages assessed as provided in section *twenty-seven* and claimed by the owner of the land the said owner shall on receipt of such moneys forthwith release the said stock.

\* As amended by section *one* of Ordinance No. 10 of 1926, section *one* of Ordinance No. 14 of 1922, and section *five* of Ordinance No. 4 of 1932.

† As amended by section *two* of Ordinance No. 3 of 1931.

‡ As amended by section *six* of Ordinance No. 4 of 1932.

(2) Whenever such stock has already been removed from the property trespassed upon and be on its way to the pound, the owner may apply to the person in charge thereof on behalf of the sender for release of the said stock on payment of the amount of the trespass fees as laid down in the last preceding sub-section and of any damage assessed and claimed as aforesaid together with the full mileage to the nearest pound and such person as aforesaid shall thereupon release the said stock.

(3) Whenever the person in charge of such stock shall refuse to accept the amount lawfully tendered as aforesaid or to release the stock, he shall be liable to a fine not exceeding five pounds in addition to any civil remedy which the owner of the stock may have against the impounder.

#### Seizure of Stock Impounded—Penalty.

\*31. (1) Any person who shall rescue or attempt to rescue or who shall prevail upon or assist any other person to rescue any stock lawfully impounded or on the way to the pound or seized and detained for the purpose of impoundment shall be guilty of an offence and shall on conviction be liable to a fine not exceeding ten pounds or in default of payment to imprisonment with or without hard labour for a period not exceeding three months.

(2) Any person who shall wilfully and illegally seize any stock for the purpose of impounding the same or who shall wilfully and illegally impound any stock, shall upon conviction be liable to a fine not exceeding twenty pounds sterling, and in default to be imprisoned with or without hard labour for any term not exceeding six months.

(3) If any animal shall be illegally seized or illegally placed in the pound the person so illegally seizing or impounding shall, in addition to any criminal prosecution which he may incur, be liable to the owner to repay or make good all damages, costs and charges arising out of such illegal seizure or impounding, together with an additional sum of double the amount of the pound fees paid for such animal.

#### Division of Stock Found Trespassing not Allowed.

32. Any person who shall divide for the purpose of driving to a pound any stock, of the same species found trespassing shall be guilty of an offence and shall be liable on conviction to the penalties hereinafter prescribed. Nothing in this section contained shall be deemed to prohibit the sending of different species of stock to the pound in separate flocks or herds.

33. No poundmaster or occupier of a pound farm shall impound or cause to be impounded in any pound other than the pound situated on such farm any stock trespassing on such farm, provided however that the poundmaster who impounds stock trespassing on his own pound farm shall not be entitled to charge any mileage for any stock so impounded. Any person contravening the provisions of this section shall be liable to the penalties hereinafter prescribed.

### CHAPTER IV.

#### POUND, HERDING, AND OTHER FEES.

##### Pound Fees, Driving Fees, Damages, and Expenses.

+34. A poundmaster shall be entitled to collect from the owner of any impounded stock the following charges provided that for the purpose of fees chargeable under this section the progeny of large stock of the age of six months and under and of small stock of the age of four months and under shall be considered as one head with the mother, if impounded together.

(a) Pound fees—	s. d.
For donkeys, mules, horses, and ostriches, per head ... ..	0 9
For horned cattle other than bulls per head ... ..	0 6
For bulls per head ... ..	2 6
For every head of small stock ... ..	0 ½
(b) Herding and tending fees:	
	s. d.
For every head of large stock other than bulls and every ostrich per diem ... ..	0 3
For every bull per diem ... ..	1 6
For every head of small stock, per diem ... ..	0 ½

Provided that such herding and tending fees shall not be payable for more than forty-two days in the case of stock with the exception of donkeys and in the case of donkeys for more than fourteen days and that no such herding and tending fees shall be payable in respect of stock impounded after five o'clock in the afternoon and released before eight o'clock in the forenoon of the following day.

\* Sub-sections (2) and (3) added by section seven of Ordinance No. 4 of 1932.

† As amended by section two of Ordinance No. 10 of 1926 and section eight of Ordinance No. 4 of 1932.

(c) Driving fees to be paid by the owner on a basis of mileage as follows:—

(1) Mileage shall be paid at the rate of 6d. per mile or portion thereof, except in the case of ostriches, when 1s. 6d. per mile or portion thereof shall be paid and except in the case of bulls when not driven along with other horned cattle when 1s. per mile or portion thereof shall be paid.

(2) Mileage shall not be paid for the return journey of a person delivering the stock to a pound, nor in respect of more than one person delivering this stock in one lot.

(3) If stock, being the property of different persons is sent to a pound in one lot the poundmaster shall demand of each owner a pro rata share of the driving fee.

(d) Damages, costs and trespass fees, which may be payable by the owner of any impounded stock as prescribed by section *twenty-seven* of Chapter III.

(e) The costs of the advertisement prescribed by sub-section (1) of section *thirty-seven* of Chapter V in the case of stock which has been advertised but released before the date of sale.

(f) The costs of any dipping, dressing, inoculating, treating, or spraying of animals which under this or any other law may have been incurred by the poundmaster during the period of impoundment, at a rate to be prescribed by regulation.

## CHAPTER V.

### DISPOSAL OF IMPOUNDED STOCK.

#### Stock to be Released on Payment of Charges.

35. On the payment of the charges payable to a poundmaster under the provisions of section *thirty-four* of Chapter IV of this Ordinance the poundmaster shall forthwith deliver to the owner or person duly authorized in writing by the owner on his behalf the impounded stock belonging to that owner and shall obtain a receipt therefor which shall be in a form to be prescribed by regulation. A poundmaster contravening the provisions of this section shall be guilty of an offence and be liable on conviction to the penalties hereinafter prescribed.

#### Security for Payment of Charges.

36. If the owner of any impounded stock applies to the poundmaster for the release thereof but is unable then and there to pay the amount necessary for such release, the poundmaster shall retain only such number of the said stock as shall by him be considered sufficient to secure payment of the said amount and shall deliver to the owner or his duly authorized agent the remainder of the stock.

#### Sale of Impounded Stock.

37. Whenever any impounded stock has not been released in accordance with the provisions of the last two preceding sections within a period of forty-two days from the date of impoundment the poundmaster shall sell such stock by public auction subject to the following provisions:—

(1) Notice of the sale shall be published by the poundmaster in the *Provincial Gazette* and in a newspaper circulating in the district at least twenty-one days before the sale be held and such notice shall contain a sufficient description of the stock to be sold and of the farm, ward, and district where the pound at which the sale is to be held is situate. Such notice shall be published in the English and Dutch languages.

(2) The poundmaster shall on sending such notices to the *Provincial Gazette* post a copy thereof in some conspicuous place at or near his pound and the copy shall remain so posted until the day of the sale and if damaged or defaced shall be replaced. The poundmaster shall further send a copy of such notice to the magistrate, the nearest police post, the field cornet, and to every other poundmaster within the ward and every poundmaster receiving such copy shall post the same in a conspicuous place at or near his pound, there to remain until the date of sale therein mentioned.

\* (3) All sales of stock held under the provisions of this Ordinance shall be held (at the pound) on Wednesdays at eleven o'clock in the morning and all sales shall be for cash.

#### Poundmaster Exempt from Auctioneer's Licence.

38. The poundmaster shall not be required to take out an auctioneer's licence in respect of any sales held under the provisions of this Ordinance.

#### Poundmaster may not Purchase Impounded Stock.

† 39. The poundmaster shall neither personally, nor by any other person, either directly or indirectly, purchase at any sale held under the provisions of this Ordinance.

\* As amended by section *eight* of Ordinance No. 4 of 1932.

† As substituted by section *ten* of Ordinance No. 4 of 1932.

**When no Offer made for Stock on Sale.**

\*40. Whenever the poundmaster receives no offer for stock put up for sale, he shall report to the magistrate stating the estimated value of such stock and the fees, charges, and expenses incurred in respect thereof. The magistrate shall thereupon give such orders as to putting up the said stock to auction again or otherwise as to the disposal or destruction thereof as he may deem advisable. The magistrate is also hereby empowered upon application by the poundmaster to make such order as he shall see fit in regard to the disposal or destruction of any dangerously vicious animal or animal which is considered by him to be worthless and valueless owing to some serious and incurable defect, disablement or disease.

**Deduction of Charges from Proceeds of Sale.**

41. The poundmaster shall be entitled to deduct from the proceeds of any sale held under the provisions of this Ordinance, the following fees and costs:

- (a) the pound, herding and tending fees prescribed by sub-sections (a) and (b) of section *thirty-four*;
- (b) the driving fees paid by the Poundmaster to the owner of the land as prescribed by sub-section (c) of section *thirty-four*;
- (c) assessed damages (if any);
- (d) the costs of advertisement prescribed by sub-section (1) of section *thirty-seven*;
- (e) costs of dipping, inoculating, treating, spraying or dressing (if any) prescribed in sub-section (f) of section *thirty-four*;
- (f) an amount equivalent to five per. cent. of the purchase price as auctioneer's fees.

The balance, less thirty-three and one-third per cent. thereof which shall be regarded as payment to the poundmaster for his services shall be paid to the magistrate at the end of each month on behalf of the Provincial Revenue Fund.

42. The poundmaster shall on the first day of the month render to the magistrate a return of all sales supported by vouchers and certificates from the several purchasers and the magistrate shall pay the balance referred to in the preceding section into the Provincial Revenue Fund in such manner as the Administrator may direct. Any poundmaster failing to make such return or to pay to the magistrate the balance of proceeds as aforesaid shall be guilty of an offence and liable to the penalties hereinafter prescribed.

43. On application being made to the magistrate by the owner of any stock sold under this Ordinance within twelve months of the sale thereof and upon satisfactory proof of ownership in respect of such stock being furnished, the amount which has been paid to the Provincial Revenue Fund shall be refunded to him.

Section *one* of Ordinance No. 3 of 1931 provides:—

**Impounding of Donkeys.**

1. Notwithstanding anything contained in the Pounds Ordinance No. 7 of 1913 or any amendment thereof (hereinafter referred to as the principal law) whenever any donkey is impounded in any pound the poundmaster shall forthwith post or cause to be posted at the gate of the pound and at the nearest police station a notice setting forth a description, marks and distinguishing peculiarities (if any) of such animal and fixing a date not being less than fourteen days from the date of the impounding when the said animal will be sold. If at the sale so advertised and held no offer is made for the purchase of the animal it may be destroyed by the poundmaster.

## CHAPTER VI.

## GENERAL.

**Owner to Notify Police of Stray Stock.**

44. (1) It shall be the duty of any owner to report within fourteen days to the nearest police post the discovery of any stray stock which may have been found on his land.

(2) It shall not be lawful for any owner knowingly to allow any stray stock to remain on his land for a period longer than fourteen days but he shall before the end of such period either—

(a) notify the owner of the stock if known to him or secure such stock and send the same to the pound; or

(b) in case there be no pound within twenty miles to which such stock may be legally sent or in case such stock be too wild or cannot be moved to be sent to the pound give notice to the magistrate accompanied by two affidavits as to the facts of the case on receipt whereof the magistrate may

\* As amended by section *eleven* of Ordinance No. 4 of 1932.

authorize the sale of such stock\* either at the pound or at the farm where they are running by the poundmaster to whose pound the same would have been sent and in such case the provisions of Chapter V hereof shall *mutatis mutandis* apply, and the owner of the land shall be entitled to receive out of the proceeds of such sale an amount equivalent to the driving fees and damage (if any) which would have been payable to him had he sent the stock to the pound. If the magistrate shall decide that such sale shall take place at the said farm the poundmaster shall be entitled to deduct from the proceeds of the sale such amount to cover his reasonable travelling expenses as may be determined in each case by the magistrate.

(3) Any proprietor allowing any stray stock to remain on his land in contravention of the provisions of this section shall be guilty of an offence and liable to the penalties hereinafter prescribed.

#### Police may Impound Stock.

45. Any member of the police force may impound stock found straying upon any street or open space in a township not being within the area of any municipality or on any outspan.

#### Impoundment of "Entire" Animals.

†46. The owner of land amongst whose breeding stock of the same species any "entire" is found trespassing shall be entitled to impound such "entire" and in addition to his right of impoundment and ordinary fees and assessed damages, and notwithstanding anything to the contrary in this Ordinance, be entitled to recover direct from the owner of such "entire" the following amounts as damage for each such trespass:—

(a) For every horse or donkey stallion over two years old: one pound.

(b) For every bull over eighteen months old: one pound.

(c) For every sheep ram or goat ram over eight months old: ten shillings.

Pigs or poultry doing damage in gardens, cultivated lands, dams, water-furrows, grain, or hay may be killed by the owner of the damaged property on and in the aforesaid places.

#### Regulations.

47. The Administrator may from time to time make, alter, or rescind regulations (not inconsistent with this Ordinance) prescribing—

(a) the method of accounting to be adopted by poundmasters;

(b) the proper audit of the accounts of poundmasters;

(c) the conduct of sales held under the provisions of this Ordinance;

(d) the expenses to be paid under the provisions of section *twenty-seven*;

(e) the forms, returns, and books to be kept by poundmasters;

(f) and generally for the better carrying out of the objects of this Ordinance.

#### Penalties.

48. Any person who shall contravene any of the provisions of this Ordinance or any regulations made thereunder for which no special penalty is provided shall on conviction 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 one month.

#### Certain Acts Applicable to Poundmasters.

49. Nothing in this ordinance shall relieve the poundmaster of the duties imposed upon him by the Great Stock Brands Act (Transvaal) 1904 and the Diseases of Stock Act 1911 or any amendment thereof or any orders or regulations made thereunder.

#### Repeal of Laws.

50. The laws mentioned in the schedule to this Ordinance shall be and are hereby repealed to the extent set forth in the second column thereof.

#### Short Title and Date of Operation.

51. This Ordinance may be cited for all purposes as the Pounds Ordinance, 1913, and shall come into operation on such date as the Administrator shall by Proclamation declare.

#### SCHEDULE.

REPEAL OF LAWS.	EXTENT OF REPEAL.
Law No. 2 of 1882 (Transvaal).	The whole.
Law No. 8 of 1899 (Transvaal).	The whole.
Volksraad Resolution (Transvaal) Article 145 dated 19th May 1890.	The whole.

\* As amended by section *twelve* of Ordinance No. 4 of 1932.

† As amended by section *thirteen* of Ordinance No. 4 of 1932.



- No. 8 of 1913.—Roads Amendment.—*Repealed by Ordinance No. 9 of 1933.*
- No. 9 of 1913.—Shop Hours (1914) Amendment.—*Repealed by Ordinance No. 11 of 1914.*
- No. 1 of 1914.—Appropriation (Part 1914-1915).
- No. 2 of 1914.—Municipal Elections Amendment.—*Repealed by Ordinance No. 4 of 1927.*
- No. 3 of 1914.—Roads and Outspans Amendment.—*Repealed by Ordinance No. 9 of 1933.*
- No. 4 of 1914.—Second Appropriation (Part 1914-1915).
- No. 5 of 1914.—Second Appropriation (Part 1914-1915) Amendment.
- No. 6 of 1914.—Municipal Elections Amendment.—*Repealed by Ordinance No. 6 of 1918.*
- No. 7 of 1914.—Education Act Amendment.
- No. 8 of 1914.—Additional Appropriation (1913-1914).
- No. 9 of 1914.—Third Appropriation (Part 1914-1915).
- No. 10 of 1914.—Municipal Elections Further Amendment.—*Repealed by Ordinance No. 4 of 1927.*
- No. 11 of 1914.—Shop Hours.—*Repealed by Ordinance No. 14 of 1916.*
- No. 12 of 1914.—Fourth Appropriation (1914-1915) (Part).
- No. 1 of 1915.—Local Government (1915) Amendment.—*Repealed by Ordinance No. 11 of 1926.*
- No. 2 of 1915.—Appropriation (1914-1915).
- No. 3 of 1915.—Education Act Amendment.
- No. 4 of 1915.—Education Act Further Amendment.
- No. 5 of 1915.—Hospital Committees.—*Repealed by Ordinance No. 10 of 1917.*
- No. 6 of 1915.—Motor Vehicle.—*Repealed by Ordinance No. 17 of 1931.*
- No. 7 of 1915.—Unauthorized Expenditure (1913-1914).
- No. 8 of 1915.—Appropriation (Part 1915-1916).
- No. 9 of 1915.—Motor Vehicle Amendment.—*Repealed by Ordinance No. 17 of 1931.*
- No. 10 of 1915.—Appropriation (1916) (1915-1916).
- No. 1 of 1916.—Local Authorities Rating Amendment.—*Repealed by Ordinance No. 13 of 1928.*
- No. 2 of 1916.—Motor Vehicle Amendment.—*Repealed by Ordinance No. 17 of 1931.*
- No. 3 of 1916.—Appropriation (Part 1916-1917).
- No. 4 of 1916.—Unauthorized Expenditure (1914-1915).
- No. 5 of 1916.] (Assented to 10th June, 1916.)

## AN ORDINANCE

To Provide for the Payment of Retiring Allowances and Financial Benefits to certain Persons in the Employment of the Transvaal Education Department.

BE IT ENACTED by the Provincial Council of Transvaal as follows:—

## Interpretation of Terms.

\*1. In this Ordinance unless inconsistent with the context:

“Actuary” shall mean a Fellow of the Institute of Actuaries of London or of the Faculty of Actuaries in Scotland, or any other person recognized as an actuary by the Governor-General;

“Administrator” shall mean the officer appointed under sub-section (1) of section *sixty-eight* of the South Africa Act, 1909, or any amendment thereof, acting on the advice and with the consent of the Executive Committee of the Province;

“Administration” shall mean the Transvaal Provincial Administration;

“annuity” shall mean the annual sum payable during the lifetime of a retired or retiring officer;

“Board” shall mean the Pensions Board constituted under section *fourteen* of this Ordinance.

“contributions”.—*Deleted by section two of Ordinance No. 4 of 1923.*

“the Department” shall mean the Transvaal Education Department;

“fixed date” shall mean the date fixed under this Ordinance for the establishment of the fund;

“the fund” shall mean the fund established under this Ordinance;

“gratuity” for the purposes of this Ordinance shall mean the sum which would be due and payable under sub-section (1) of section *forty-eight* of the

\* As amended by section *one* of Ordinance No. 15 of 1918 and section *one* of Ordinance No. 15 of 1919.

Public Service and Pensions Act, 1908, if the teacher had resigned on the date the contributions to the fund commenced;

"interest" shall mean in contradistinction to compound interest simple interest;

"Medical Officer" shall mean the Medical Inspector of Schools under the Transvaal Education Department or any duly qualified medical practitioner acting on his behalf.

"Officer" shall mean a person employed on the regular teaching staff of the Transvaal Education Department;

(In terms of section one of Ordinance No. 17 of 1927 as amended by section one of Ordinance No. 19 of 1940, "Officer contributing as at the commencement of this Ordinance" includes a person in respect of whom the Director of Education certifies that he was at the first day of April, 1940, eligible to become an officer and to contribute and had for reasons outside his control not become a contributor as at the commencement of this Ordinance.)

"this Ordinance" shall include regulations;

"pension" shall mean an annuity or gratuity or both as the context requires;

"pensionable emoluments" shall include:—

(a) an officer's salary;

(b) ration allowances or the value of free rations;

(c) the estimated rental value of quarters, whether belonging to the Government or not, whenever an officer is allowed to occupy quarters free of rent as a portion of his emoluments, or any allowance granted in lieu of the provision of free quarters: and free quarters shall for the purpose be assessed at a sum equal to one-sixth of the officer's other pensionable emoluments for services certified by the Director of Education to be teaching services;

(d) climatic allowance or other allowance or allowances approved by the Administrator but shall not include:—

(i) any local allowance for the cost of living; or

(ii) any special remuneration which an officer may receive for performing special duties or while acting in an office, whether permanently or temporarily vacant; or

(iii) any transport or subsistence allowance; or

(iv) fees, honoraria, or bonuses of any; or

(v) overtime payment; or

(vi) any other allowance not herein specified.

"prescribed" shall mean prescribed by or under the authority of this Ordinance or any other law;

"regulation" shall include a regulation made and in force under this Ordinance;

"revenue" shall mean the Provincial Revenue Fund as constituted under section eighty-nine of the South Africa Act, 1909;

"salary" shall mean the annual pay of an officer, and shall include any special or personal allowances attached to a particular officer if such allowances when granted be specially declared to be part of his pensionable emoluments;

"superannuation" shall mean, in relation to an officer, the attainment of the age fixed by this Ordinance for the retirement from the Department of such an officer.

#### *The Fund.*

#### **Establishment of the Fund.**

\*2. (1) There shall be established, as from a date to be fixed by Proclamation in the *Provincial Gazette*, a fund to be called the Transvaal Teachers' Pension Fund, which shall be administered by a Board as hereinafter constituted, and such fund shall consist of—

(a) contributions made by officers in accordance with the provisions of this Ordinance;

(b) sums and interest paid out of revenue in accordance with the provisions of this Ordinance; and

(c) Any other sums which under this Ordinance are to be credited to the fund.

(2) All amounts contributed or paid to the fund shall be lodged with the administration to the credit of the fund in a separate deposit account, and any balances not required for current purposes shall be devoted to the purchase of stock of the Union of South Africa the Province of Transvaal or any Local Authority in the Union of South Africa subject to the approval of the Public Debt Commissioners and the Administration; provided that if any investment produces a lower rate of interest than three and a half per cent. per annum a sum equal to the deficiency shall, as soon as the deficiency is ascertained, be paid from revenue to the fund.

\* As amended by section four of Ordinance No. 17 of 1927.

**Contributions by Officers Appointed on or after the Fixed Date.**

\*3. (1) Every officer appointed on or after the fixed date, save as provided in sub-sections (2) and (3) of this section, shall, as from the date of his admittance to the regular teaching staff of the Department, make contribution at the rate of four per cent. in the case of male teachers, and five per cent. in the case of female teachers of his or her pensionable emoluments to the fund.

(2) An officer appointed on or after the fixed date whose age is at the date of his admittance to the regular teaching staff of the Department, thirty-five years or over, may, within three months after the date of his appointment, elect to make contributions to the fund, but it shall not be obligatory upon him to do so.

Provided that all the arrear contributions in respect of any period within which under this sub-section such an officer has been making his election shall be paid by the officer at the end of the month in which he notifies his intention of contributing, notwithstanding anything to the contrary in this Ordinance contained.

Provided further that a male officer whose age at the date of his admittance to the regular teaching staff is forty years or over shall, if he elect to contribute, make contributions to the fund in accordance with the following scale:—

		<i>Per cent. of his Pensionable Emoluments.</i>	
40 years but not exceeding 41 years	...	...	4 $\frac{1}{2}$
41 " " "	42 " "	...	4 $\frac{2}{4}$
42 " " "	43 " "	...	4 $\frac{3}{4}$
43 " " "	44 " "	...	4 $\frac{4}{4}$
44 " " "	45 " "	...	5
45 " " "	46 " "	...	5 $\frac{1}{4}$
46 " " "	47 " "	...	5 $\frac{2}{4}$
47 " " "	48 " "	...	5 $\frac{3}{4}$
48 " " "	49 " "	...	5 $\frac{4}{4}$
49 " " "	50 " "	...	6

and provided further that a female officer whose age at the date of her admittance to the regular teaching staff is thirty-five years or over shall, if she elect to contribute, make contributions to the fund in accordance with the following scale:—

		<i>Per cent. of Pensionable Emoluments.</i>	
35 years but not exceeding 36 years	...	...	5 $\frac{1}{4}$
36 " " "	37 " "	...	5 $\frac{2}{4}$
37 " " "	38 " "	...	6
38 " " "	39 " "	...	6 $\frac{1}{4}$
39 " " "	40 " "	...	6 $\frac{2}{4}$

(3) No contribution shall be made to the fund by an officer (a) except in respect of service on the regular teaching staff of the Department; (b) whose age at the date of his admittance to the regular teaching staff is fifty years or over, or, in the case of women, is forty-five years or over: Provided that the Board may allow a teacher, who has not been admitted to the regular teaching staff, to contribute to the fund in exceptional circumstances on the same terms and conditions as are by this Ordinance prescribed for teachers on the regular teaching staff. Provided further that the Board may allow an officer whose service has been continuous to contribute in respect of service prior to his admission to the regular teaching staff and every officer so permitted shall intimate in writing to the Board within a reasonable period to be specified by the Board what period (if any) of his past continuous employment he desires to have reckoned for purposes of pension. He shall then become liable in respect of that period or portion thereof for the payment of an amount equal to the amount of his own contributions at the prescribed rate.

Any female officer who prior to the commencement of Ordinance No. 17 of 1927 was ineligible on account of age to contribute to the fund and who was under the age of 45 on the 1st July, 1927, may elect to contribute to the fund subject to the following conditions:—

(a) She shall make the election within one month of the receipt of an intimation from the Department of her eligibility to contribute;

(b) she shall contribute in respect of the whole period of the service in respect of which she elects to contribute at the rates prescribed in paragraph

(b) of sub-section (1) of section two of Ordinance No. 17 of 1927;

\* As amended by sections three of Ordinance No. 15 of 1918, five of Ordinance No. 17 of 1927, two and three of Ordinance No. 12 of 1928, and two of Ordinance No. 17 of 1930.

(c) the provisions of the principal law in respect of the payment of arrear contributions and interest on arrear contributions by the officer and by the Administration shall *mutatis mutandis* apply.

(4) Every officer appointed on or after the fixed date, who desires to contribute to the fund under the provisions of section *five*, shall intimate to the Director of Education in writing within three months after the date of his appointment, what period (if any) of such past continuous employment he desires to have reckoned for pension purposes. The Board shall then decide whether or not that period or any portion thereof is entitled to be counted as continuous employment for pension purposes, and if it be decided that the officer is entitled to count such period or portion thereof he shall become liable in respect of that period or portion thereof for the payment of an amount calculated in accordance with the provisions of section *five*.

(5) No officer appointed on or after the fixed date shall be entitled to contribute to the Teachers' Provident Fund constituted under Act No. 19 of 1908 (Transvaal), or on his retirement from the service of the Department to receive from revenue any gratuity or benefit other than those provided for under this Ordinance.

(6) (a) Notwithstanding anything to the contrary in this section contained any teacher who is appointed after the 1st January, 1929, to a permanent post under the Department in terms of section *seventy-eight* of the Education Act, 1907, shall make contributions to the fund at the rate prescribed in section *two* of the Transvaal Teachers' Pensions Amendment Ordinance, 1927. Such contributions shall be made as from the date of his first appointment and the total contributions from the due date shall, anything to the contrary notwithstanding in the principal law contained, be recovered from the next succeeding payment of his pensionable emoluments. Provided that, if for any reason the teacher is not admitted to the regular teaching staff of the Department the said contributions shall be regarded as made erroneously and shall be refunded to him, or in the case of deceased to his estate, with interest at the rate of three per cent. per annum and the contributions paid by the Administration in respect of such teacher shall be refunded to revenue with interest at three per cent. per annum. Provided further that, if any such teacher states in writing to the Department that he desires not to contribute to the fund, or desires to cease contributing to the fund during the probationary period of his service no such contributions shall be made by or in respect of such teacher and any contributions which have been made by him shall be refunded to him with interest at three per cent. per annum, and any contributions made by the Administration in respect of such teacher shall be refunded to revenue with interest at three per cent. per annum and the teacher shall not at any future date be permitted to contribute to the fund in respect of his probationary service.

(b) All provisions in the principal law relative to contributions by or in respect of officers shall be regarded as including the contributions payable by or in respect of teachers under the preceding sub-section.

**Officers Employed at Fixed Date Eligible to Contribute to the Fund and Contributions by such Officers.**

\*4. (1) Every officer employed in the Department at the fixed date shall be eligible to contribute to the fund in respect of the whole or part of his past continuous service subsequent to the 31st December, 1904;

Provided that his age as at the date from which he elects to contribute to the fund does not exceed fifty years if his retiring age is 60, or forty years if the retiring age of such officer is less than 60; and provided further that notwithstanding anything to the contrary contained in this Ordinance, the Board may allow an officer with not less than ten years' service at the fixed date, on such terms as it may deem equitable, after consultation with the actuary, to contribute to the fund, notwithstanding that the age of such officer was, at the date of his appointment, greater than the age specified in the preceding proviso.

(Section six of Ordinance No. 17 of 1927 provides:—

Notwithstanding anything contained in the second proviso of sub-section (1) of section *four* of the principal Ordinance with reference to the terms on which the officers referred to therein have been allowed to contribute to the fund, the Board shall decide upon such amended terms as it may deem equitable after consultation with the actuary, and such amended terms shall have effect as from the commencement of this Ordinance.)

(2) Any male officer whose age at the date from which he elects to contribute to the fund is under forty years shall be eligible to make contribution to the fund in accordance with the provisions of sub-section (1) of section *three* of the principal ordinance.

\* As substituted by section *four* of Ordinance No. 15 of 1918.

Any female officer employed at the fixed date whose age as at the date from which she elects to contribute to the fund is under forty years shall be eligible to make contributions to the fund. The rate at which such officer shall contribute to the fund shall depend upon the age for the retirement of such officer as is prescribed in section *nine* of this Ordinance, and shall be in accordance with one of the following scales:—

	<i>Prescribed Age of Retirement.</i>	<i>Per cent. of Pensionable Emoluments.</i>
Under 35 years ... ..	50	5
Under 35 years ... ..	55	4½
35 years but not exceeding 36 years ...	50	5½
35 years but not exceeding 36 years ...	55	4¾
36 years but not exceeding 37 years ...	50	5¾
36 years but not exceeding 37 years ...	55	5
37 years but not exceeding 38 years ...	50	6
37 years but not exceeding 38 years ...	55	5½
38 years but not exceeding 39 years ...	50	6½
38 years but not exceeding 39 years ...	55	5½
39 years but not exceeding 40 years ...	50	6¾
39 years but not exceeding 40 years ...	55	5¾
Under 40 years ... ..	60	4

(3) Any male officer or female officer who elects to retire at 60 and whose age as at the date from which he or she elects to contribute to the fund is forty years or over shall be eligible to make contributions to the fund in accordance with the scale provided in sub-section (2) of section *three* of the principal ordinance, or, in the case of an officer whose contribution is authorized under the second proviso of sub-section (1) hereof, at the rate approved by the Board.

(4) (i) Every officer who elects to contribute to the fund under this section shall intimate in writing to the Board within a reasonable period to be specified by the Board what period (if any) of his past continuous employment subsequent to 31st December, 1904, he desires to have reckoned for purposes of pension. The Board shall then decide whether or not that period or any portion thereof is entitled to be counted as continuous employment for pension purposes, and if it be decided that the officer is entitled to count such period or portion thereof, the officer shall pay to the fund an amount equal to his own contributions at the prescribed rate from the date approved by the Board up to the date in respect of which the first monthly deduction is made.

(ii) The Administration shall contribute to the fund interest compounded annually up to the fixed date at the rate of five per cent. on the amounts mentioned in the preceding paragraph (i); together with an amount equal to the contributions of the Administration at the rate prescribed for the Administration with interest compounded annually at the rate of five per cent. from the date approved by the Board up to the date in respect of which the first monthly deduction is made.

The prescribed rate of contribution for the Administration shall be as follows:—

(a) In respect of officers whose prescribed age for retirement is 60 the rates prescribed for male officers in section three of the principal Ordinance.

(b) In respect of female officers whose prescribed age for retirement is 50 the rate shall be in accordance with the following scale:—

<i>Age at Date Approved by Board for Commencement of Contributions of Officer.</i>	<i>Per cent. of Pensionable Emoluments.</i>
Under 35 years ... ..	7½
35 years but not exceeding 36 years ... ..	8 <sup>1</sup> / <sub>12</sub>
36 years but not exceeding 37 years ... ..	8 <sup>5</sup> / <sub>12</sub>
37 years but not exceeding 38 years ... ..	8¾
38 years but not exceeding 39 years ... ..	9 <sup>1</sup> / <sub>12</sub>
39 years but not exceeding 40 years ... ..	9 <sup>5</sup> / <sub>12</sub>

(c) In respect of female officers whose prescribed age for retirement is 55 the rate shall be in accordance with the following scale:—

<i>Age at Date Approved by Board for Commencement of Contributions of Officer.</i>	<i>Per cent. of Pensionable Emoluments.</i>
Under 35 years ... ..	6
35 years but not exceeding 36 years ... ..	6½
36 years but not exceeding 37 years ... ..	6¾
37 years but not exceeding 38 years ... ..	6¾
38 years but not exceeding 39 years ... ..	7
39 years but not exceeding 40 years ... ..	7½

(iii) Officers who in terms of Act No. 19 of 1908 (Transvaal) are entitled to the payment of a gratuity on their final retirement from the service of the Department shall by electing to contribute to the fund under this section *ipso facto* forego all claim to payment of any such gratuity except in so far as the amount which such officer would have been entitled to receive as gratuity in respect of service subsequent to 31st December 1904 if he had resigned on the fixed date exceeds the sum of the amounts due by the Administration and the officer in respect of service prior to the fixed date in accordance with the two preceding sub-sections. The amount of such gratuity to which the officer would on retirement at the fixed date have been entitled shall be expended in the first case in meeting the amounts due by the Administration in respect of service on the regular teaching staff of the Transvaal Education Department in accordance with paragraph (ii) of this sub-section. If any balance is over it shall be then employed in meeting the liability due by the officer in respect of paragraph (i) of this sub-section. The balance, if any, remaining after the payment of all sums due under this sub-section shall be paid to such officer on his final retirement.

(iv) Officers who have contributed to the Teachers' Provident Fund constituted under Act No. 19 of 1908 (Transvaal) shall by electing to contribute to the fund *ipso facto* forego all claims to any funds in the Teachers' Provident Fund or any benefits arising therefrom except that an amount equal to their contributions to that fund up to the fixed date with compound interest at four per cent. shall be utilized for the liquidation of the amount due by them in respect of paragraph (i) of this sub-section whereupon they shall have no further claim upon that fund.

(v) An officer who has contributed to the Teachers' Provident Fund in respect of part of his service and is also entitled in terms of Act No. 19 of 1908 (Transvaal) to gratuity in respect of part of his service on his final retirement from the service of the Department and who elects to contribute to the fund under this section shall be dealt with as prescribed in the preceding paragraph in respect of his contribution to the Provident Fund and as regards his gratuity shall be dealt with as provided in paragraph (iii) of this sub-section, provided that the excess of the amount which such officer would have been entitled to receive as gratuity in respect of service subsequent to 31st December, 1904, and prior to 1st January, 1909, over the sum of the amounts due by the Administration and the officer in respect of such service shall be paid from revenue towards meeting the amounts due by the officer in respect of service during which he contributed to the Teachers' Provident Fund, and if such excess together with the whole of the contribution of the officer to the Provident Fund with interest compounded at four per cent. is more than sufficient to pay the amounts due by the officer in respect of service during which he contributed to the Teachers' Provident Fund, the balance shall be paid from revenue to such officer on his final retirement; and provided further that such officer may elect within a reasonable period to be specified by the Board to forego all claims to any funds in the Teachers' Provident Fund or benefits arising therefrom, and shall thereupon be deemed to have remained under the gratuity system under Act No. 19 of 1908 (Transvaal) and shall accordingly be dealt with as prescribed in paragraph (iii) of this sub-section.

(vi) It shall be lawful for the Administration to pay to the fund out of the Teachers' Provident Fund—

(a) the amount referred to in paragraph (iv) hereof and to apply it as therein provided;

(b) all moneys standing to the credit of an officer who has contributed to that fund in excess of his contributions thereto with compound interest at the rate of four per cent. and to apply such moneys towards the payment of the sums due by the Administration in respect of paragraph (ii) of this sub-section.

(vii) No officer who elects to contribute to the fund under this section shall after the fixed date contribute to the Teachers' Provident Fund constituted under Act No. 19 of 1908 (Transvaal) nor receive from such fund or from revenue any payments other than those provided for in the preceding sub-section.

In terms of section *twenty-two* of Ordinance No. 15 of 1918, this section does not apply to "any officer who has prior to the coming into operation of that Ordinance elected to contribute to the fund in terms of the Principal Ordinance and who signifies to the Board in writing his intention to contribute under the conditions of the Principal Ordinance, provided that such intention is notified to the Board within two months of the date on which the Board calls upon the officer concerned to make his decision."

**Service in certain Private Schools to Count for Pension Purposes.**

\*5. If an officer prior to his appointment to the Department was employed in a private school which school was recognized subsequently as a public school under the Department and if his employment conforms to section *twenty-eight* of the principal ordinance the service of such officer from a date approved by the Board shall be deemed to be service under the Department and such officer shall be entitled to the benefits of this Ordinance in respect of such service.

*N.B.*—The provisions of section *twenty-two* of Ordinance No. 15 of 1918, quoted in the footnote to section *four* also apply to this section.

**Method of Contributions by Officers.**

†6. (1) Every contribution of an officer to the fund shall be made by monthly deductions from his pensionable emoluments, and in the case of contributions from officers made in respect of any period prior to that in respect of which the first monthly deduction is made, the first complete instalment shall be deemed to have commenced as from the day next before such date, and each further complete instalment to have been paid on the last day of each month immediately preceding the last such instalment, and continue in regular order until the last instalment has been paid.

(2) Every officer shall pay into the fund either by a single payment or by instalments approved by the Board to be completed before the attainment of the retiring age such arrears as may be due by him. Such arrears shall as from the 1st January, 1917, or from the date on which they fall due, whichever is the later, bear interest at the rate of four and one-half per cent. per annum compounded annually and such interest shall continue to be payable on the balance of arrears outstanding until such time as the whole of the arrears shall have been liquidated.

Provided that where payment of such arrear contributions is taking place by instalments and the officer shall die or leave the service before he shall have completed such arrear payments then any benefits from the fund to which the officer or his representatives are entitled shall be calculated upon the whole period of his continuous employment in the service of the Department in respect of which he has elected to contribute and in the case where a refund or gratuity is payable the balance of arrears outstanding, including interest, shall be deducted from such refund or gratuity and in the case where a pension is payable the instalments outstanding shall be deducted from the pension payments and if death occurs before these are completed the balance outstanding shall be deducted from any payments from the fund to which his representatives are entitled.

(3) An officer shall continue to contribute to the fund while on leave with full pay or with pay less than full pay and his contributions shall be payable on the full pensionable emoluments which would have been drawn if the officer had not been on leave.

An officer may on application be permitted to contribute in respect of any authorized leave of absence without pay, but such application must be made and the amount due in respect thereof must be actually paid by the officer within one month of his return to duty; provided that the officer may on making written application be permitted to refund the amount in six or less monthly instalments deducted from the pensionable emoluments payable to him. Failing such application and such payment by the officer no contributions shall be collected or be payable in respect of any period of leave without pay, and no such period shall be reckoned in calculating the period of his pensionable employment.

Sections *two* and *three* of Ordinance No. 17 of 1927, as amended by sections *one* and *two* of Ordinance No. 19 of 1920, provide:—

**Contributions by Officers to Fund.**

2. (1) Notwithstanding anything in the principal ordinance contained every officer contributing as at the first day of April, 1940, shall as from the commencement of this ordinance and every officer not so contributing as at the first day of April, 1940, shall as from the commencement of his pensionable service pay contributions to the fund in accordance with the following scales, but subject always to the provision of the principal ordinance relating to the payment of such arrear contributions and interest; provided that this sub-section shall in no way apply to contributions due from officers contributing as at the first day of April, 1940, in respect of any period prior to the commencement of this Ordinance.

\* As substituted by section *five* of Ordinance No. 15 of 1918.

† As amended by sections *six* of Ordinance No. 15 of 1918, *seven* of Ordinance No. 17 of 1927, and *one* of Ordinance No. 12 of 1929.

(a) In respect of male officers the scale of contributions shall be:—

<i>Age last birthday at commencement of Pensionable Service.</i>	<i>Per cent. of pensionable emoluments.</i>
Under 40 years	5.75
40	6
41	6.20
42	6.40
43	6.60
44	6.80
45	7
46	7.20
47	7.40
48	7.60
49	7.80

(b) In respect of female officers whose prescribed age of retirement is 55 years the scale of contributions shall be:—

<i>Age last birthday at commencement of Pensionable Service.</i>	<i>Per cent. of pensionable emoluments.</i>
Under 35 years	7.5
35	7.75
36	8
37	8.25
38	8.5
39	8.75
40	9.05
41	9.35
42	9.65
43	9.95
44	10.25

(c) In respect of female officers whose prescribed age for retirement is 60 years, the scale of contributions shall be in accordance with paragraph (a) of this sub-section.

(2) Notwithstanding anything contained in section *twenty-two* of the Transvaal Teachers' Pensions Amendment Ordinance No. 15 of 1918, every officer who has elected to contribute to the fund in terms of the Transvaal Teachers' Pensions Ordinance No. 5 of 1916 shall as from the first day of April 1940 pay contributions to the fund in accordance with the scales specified in subsection (1) of this section, but subject always to the provisions of the Transvaal Teachers' Pensions Ordinance No. 5 of 1916 relating to the payment of such contributions and of arrear contributions and interest; provided that this sub-section shall in no way apply to contributions due in respect of any period prior to the first day of April 1940.

#### **Contributions by Administration.**

3. Notwithstanding anything in the principal Ordinance contained the contributions payable by the Administration in respect of every officer contributing as at the first day of April 1940 shall, as from the first day of April 1940, and the contributions payable by the Administration in respect of every officer not so contributing as at the first day of April 1940 shall as from the commencement of his pensionable service be at the rates prescribed in the last preceding section, but subject always to the provisions of the principal Ordinance relating to the payment of such contributions and of arrear contributions and interest and to the payment of other sums by the Administration; provided that this section shall in no way apply to contributions due in respect of officers contributing as at the first day of April 1940 in respect of any period prior to the first day of April 1940.

#### **Contributions by the Administration.**

\*7. From and after the fixed date there shall be paid out of revenue to the fund:

(a) A sum equal to the aggregate of the contributions due by the Administration at the prescribed rates in respect of service for which current contributions of officers are made by monthly deductions.

(b) The amounts due by the Administration in respect of service other than that dealt with in paragraph (a) with interest from the dates when such amounts are due at the rate of four and one-half per cent. per annum compounded annually.

(c) Interest at the rate of four and one-half per cent. per annum on the daily average uninvested balance of the fund.

\* As amended by section *seven* of Ordinance No. 15 of 1918 and section *eight* of Ordinance No. 17 of 1927.



The payments referred to in paragraphs (a) and (c) of this section shall be made to the fund monthly. The Administration shall pay into the fund over a period of twenty-five years from the fixed date such equal or approximately equal monthly instalments as are required to make good the amounts due under paragraph (b) of this section during such period. Any amounts due during subsequent periods under paragraph (b) of this section shall be paid as soon as the same can be ascertained.

**Method of Calculation of Annuity.**

\*8. Subject to the provisions of his Ordinance any annuity payable out of the fund shall be based on the average pensionable emoluments of the retiring officer for the last seven years of his period of contributions to the fund and shall be calculated at the rate of one-sixtieth of those average pensionable emoluments for each year of contribution:

Provided that—

(a) no annuity shall be paid out of the fund to any person until contributions have been made by him in respect of a period of ten years or more;

(b) the person is in other respects entitled to an annuity under this Ordinance.

(c) no annuity paid to any officer who is entitled to an annuity from the fund shall be at a lesser rate than sixty pounds per annum.

For the purposes of this section the period of contributions shall be calculated by the year and month and fractions of a month shall be disregarded.

(2) The Administration shall pay to any officer who elects to contribute to the fund in terms of section *four* hereof on his retirement in addition to any annuity payable out of the fund in accordance with the principal ordinance an annuity amounting to one-sixtieth of the officer's total pensionable emoluments in the service of the Department prior to 1st January 1905 and such annuity shall be payable out of revenue.

(3) No annuity shall be payable under sub-section (2) of this section in respect of any officer who has not elected to reckon under section *four* of this Ordinance either the whole period of his service between 31st December, 1904, and the fixed date or at least such portion of his service prior to the fixed date as is covered in respect of gratuity or provident fund moneys authorised under paragraphs (iii), (iv) and (v) of sub-section (4) of section *four* of this Ordinance.

(2) The provisions of the preceding sub-section shall apply as from the commencement of this Ordinance to an officer who has been retired on an annuity after the first day of January, 1926: provided that they shall not apply to an officer who retired after that date and prior to the commencement of this Ordinance if such officer has reached the prescribed age for retirement before the first day of January, 1926.

(3) Notwithstanding anything contained in section *twenty-two* of the Transvaal Teachers' Pensions Amendment Ordinance No. 15 of 1918, the provisions of this section shall apply to an officer who has elected to contribute to the fund in terms of the Transvaal Teachers' Pensions Ordinance No. 5 of 1916.

*N.B.*—The provisions of section *twenty-two* of Ordinance No. 15 of 1918 quoted at the foot of section *four* also apply to this section.

**Retirement at or after the Prescribed Ages upon Annuity.**

9. (1) (a) A male officer shall have reached the prescribed age for retirement when he has attained the age of 60.

(b) A female officer whose admission to the regular teaching staff takes effect from or subsequent to the fixed date shall have reached the prescribed age for retirement when she has attained the age of 50.

(c) A female officer employed in the Department at the fixed date shall have reached the prescribed age for retirement when she has attained the age of 50; provided that—

(i) a female officer who had attained the age of 45 on the fixed date or had attained the age of 35 on the date of her admission to the regular teaching staff shall be permitted to choose as her prescribed age of retirement the date on which she attains the age of 55 or the date on which she attains the age of 60;

(ii) a female officer who had attained the age of 35 on the fixed date or had attained the age of 30 on the date of her admission to the regular teaching staff shall be permitted to choose as her prescribed age for retirement the date on which she attains the age of 55;

† provided further that if the officer concerned does not signify in writing to the Board her decision within six months of the taking effect of this Ordinance the age prescribed for retirement shall in the case of such officer be 50. It shall be the duty of the Board within two months of the taking effect of this Ordinance to call upon the officer to signify her decision.

\* As amended by section *eight* of Ordinance No. 15 of 1918 and section *nine* of Ordinance No. 17 of 1927.

† As amended by section *nine* of Ordinance No. 15 of 1918 and section *ten* of Ordinance No. 17 of 1927.

(2) An officer who has attained the prescribed age for retirement shall have the right to retire and shall be required so to retire unless it is resirable in the public interest to retain such officer in his or her office or post over that age; and in that event such an officer may from time to time with the approval of the medical officer be retained for further periods (not exceeding one year at a time) up to the age of sixty-five years, after which age no teacher shall be retained on the regular teaching staff: Provided that a return of male officers retained after the age of sixty years and female officers retained after the age of fifty-five years shall be laid before the Provincial Council within fourteen days after the commencement of every ordinary session thereof, and provided further that if any teacher, after ceasing to be an officer is retained in a temporary capacity in the employment of the Department, after reaching the age of 65, any benefits which have accrued under this Ordinance or any amendment thereof to such teacher shall be withheld until he finally leaves the service of the Department.

(3) A male officer who has attained the age of fifty-five years or a female officer who has attained the age of fifty years may be required to retire on pension, but all payments of annuity made before that officer is entitled to retire under sub-section (1) of this section shall be paid out of revenue and not out of the fund.

(4) Any officer who has been compelled to retire in terms of sub-section (3) of this section and who may elect to continue to contribute to the fund shall be permitted to continue so to contribute and the Administration shall continue to contribute in respect of such officer at the prescribed rate based on the salary at the date of his compulsory retirement until such officer attains the prescribed age of retirement. Such officer shall on reaching the prescribed age receive the same annuity as he would have received had he not been compelled to retire before attaining the prescribed age.

*Section twenty-two of Ordinance No. 17 of 1927 as amended by section six of Ordinance No. 12 of 1928 provides:—*

**Applicability of certain Sections.**

22. Sections *four, five, eight and nine* of this Ordinance shall not apply to any officer who has prior to the coming into operation of this Ordinance elected to contribute to the fund in terms of the principal ordinance and who signifies to the Board in writing his intention to contribute under the conditions of the principal ordinance, provided that such intention is notified to the Board within two months of the date on which the Board calls upon the officer concerned to make his decision.

*Section one of Ordinance No. 9 of 1924 provides:—*

**Male Officer may Retire at Age of 55.**

(a) Notwithstanding anything contained in the Transvaal Teachers' Pensions Ordinance, 1916, as from time to time amended (hereinafter referred to as the principal ordinance) a male officer who has attained the age of fifty-five years may retire on pension.

(b) An officer who retires in accordance with the provisions of the preceding sub-section shall receive an annuity as provided in sub-section (1) of section *eight* of the principal ordinance subject to a deduction of two-fifths of one per centum in respect of each month or part thereof by which age 60 exceeds the actual age of such officer at retirement.

*While the following additional provisions regarding the retirement of female officers have been introduced.*

(a) *By section one of Ordinance No. 17 of 1930:—*

**Female Officers may Retire at the Age of 50.**

1. (1) Notwithstanding anything contained in the Transvaal Teachers' Pensions Ordinance No. 5 of 1916 as from time to time amended (hereinafter referred to as the principal law) a female teacher who has attained the age of 50 years may retire on pension.

(2) A female teacher who retires in accordance with the provisions of the preceding sub-section shall receive an annuity as provided in sub-section (1) of section *eight* of the principal law subject to a deduction of one-third of one per cent. in respect of each month or part thereof by which age 55 exceeds the actual age of such officer on retirement.

(b) *By section ten of Ordinance No. 17 of 1927:—*

**New Provisions for Retiring Age of Female Officers.**

(1) Notwithstanding anything contained in section *nine* or any other section of the principal Ordinance, wherever the principal Ordinance provides that the prescribed age for retirement of a female officer shall be fifty years, such prescribed age shall as from the commencement of this Ordinance, be fifty-five years.

[ (2) and (3) amend section *nine* of the principal ordinance.]

(4) Notwithstanding anything contained in section *twenty-two* of the Transvaal Teachers' Pensions Amendment Ordinance No. 15 of 1918, the provisions of this section shall apply to an officer who has elected to contribute to the fund in terms of the Transvaal Teachers' Pensions Ordinance No. 5 of 1916.

**Retirement upon an Annuity before the Prescribed Age on Grounds of Ill-health.**

\*10. (1) An officer who, having contributed to the fund in respect of a period of ten years or more, is found on grounds of ill-health caused without his own default and certified by a medical officer or medical board approved by the Department to be unfit to discharge efficiently the duties of his office or post, shall be temporarily retired and shall be entitled to receive in respect of his completed period of contributions an annuity calculated as is provided in section *eight*.

(2) If an officer to whom an annuity has, under sub-section (1) of this section, been granted be certified by a medical officer or approved medical board within two years of his temporary retirement, as fit for duty and be still under the age of superannuation he may be required to resume duty in his former or in any other office or post. Should he refuse to resume duty without reasonable cause, the annuity provided under sub-section (1) shall cease:

Provided that—

(a) The pensionable emoluments attaching to the office or post shall not be less than the pensionable emoluments drawn by him immediately prior to his temporary retirement;

(b) the officer or post of which he is required to resume duty is not of a lower grade than that from which he temporarily retired;

(c) any pension which he was drawing at the time of resuming duty shall determine;

(d) on his final retirement he shall be entitled for the purposes of pension to add together the periods of employment prior to and subsequent to his temporary retirement if he contributes to the fund during that subsequent period.

If on the expiry of two years from the date of his temporary retirement an officer has not been required to resume duty or is still medically unfit for duty he shall be deemed to have finally retired from the service of the Department.

The annuity calculated as is provided in section *eight* shall be paid from the fund and any additional sums shall be payable from revenue.

**Retirement upon an Annuity owing to Reorganization.**

11. An officer who has contributed to the fund in respect of a period of ten years or more, shall, if discharged owing to abolition of his office, be entitled to receive in respect of his completed period of contribution an annuity calculated as is provided in section *eight*. All payments of any such annuity made before such an officer attains the retiring age prescribed under sub-section (1) of section *nine* shall be paid out of revenue, and not out of the fund, but all such payments made after he attains that age shall be out of the fund.

*Benefits Other than Annuities.*

**Return of Contributions.**

†12. An officer shall be entitled, on application, to a return of the whole of his own contributions to the fund at the prescribed rate together with simple interest, calculated at the rate of three per cent. if he has completed three years' service, and at the rate of four per cent. if he has completed five years' service, and at the rate of five per cent. if he has completed ten years' service if he retire from the service of the Department from any cause whatsoever, unless the retirement be under the provisions of sections *ten*, *thirteen*, or *sixteen*, and he shall have no further claim upon the fund.

Provided that in the case of an officer dismissed for fraud or dishonesty the Board may deduct from any sums payable to such member under this section the amount of any loss which the Administration may have sustained by reason of such fraud or dishonesty. Any such deduction shall be refunded to revenue.

Provided further that no interest shall be paid in case of dismissal from the service of the Education Department in terms of any regulation made under the Education Act, 1907, or any amendment thereof.

Provided further that nothing in this section contained shall take away an officer's right to the payment of any gratuity payable under section *four* of this Ordinance.

\* As amended by section *ten* of Ordinance No. 15 of 1918, section *five* of Ordinance No. 12 of 1928, and section *two* of Ordinance No. 12 of 1929.

† As amended by section *eleven* of Ordinance No. 15 of 1918.

**Return of Twice the Amount of Contributions.**

\*13. (1) An officer shall be entitled on application to a return of a sum equal to twice the amount of his contributions at the prescribed rate to the fund, without interest, together with any gratuity payable under section *four* of this Ordinance if

(a) he retire from the service of the Department for reasons described in sections *ten* and *eleven*, but before he has completed contributions to the fund in respect of a period of ten years; or

(b) being a female officer she is discharged from the service on her marriage or retires voluntarily from the service in contemplation of her marriage and has had not less than five years' service, and marries within three months of the termination of such service.

(2) For the purpose of paragraph (b) of the preceding sub-section, an officer shall be deemed to have completed five years' service if she has served for a period of five calendar years or for a period covering the number of school terms contained in five calendar years, whichever is the less.

*Annuities, Gratuities, or Return of Contributions to Representatives of Deceased Officers.*

**Gratuity in Event of Death before or soon after Retirement.**

†14. (1) Subject to the provisions of sub-section (3) of this section, if an officer die before his retirement from the service of the Department, there shall be paid to or for the benefit of the persons mentioned in sub-section (3) a gratuity equal to twice the amount of his own contributions at the prescribed rate to the fund, without interest together with any gratuity payable under section *four* of this Ordinance.

(2) Subject to the provisions of sub-section (3) of this section, if any person who has retired from the service of the Department on an annuity under this Ordinance, die within five years after the date of his retirement, there shall be paid to or for the benefit of the persons mentioned in sub-section (3) either the annuity which such person, if he had not died, would have drawn during the unexpired portion of the period of five years aforesaid, or a gratuity equal to the sum of the annuity payments during such unexpired portion of the period of five years aforesaid together with any gratuity payable under section *four* of this Ordinance.

(3) The annuity or gratuity under sub-section (1) or (2) shall only be paid when the deceased person leaves.

(a) a widow or widower or child or children or step-child or step-children; or

(b) a father, mother, brother, only sister dependent upon him for support and maintenance, and shall not be paid to or for the benefit of any other collateral or more distant relative.

In every such case the payment shall be made to or for the benefit of one or more of the persons specified in paragraphs (a) and (b) and the selection of the person or persons shall be in the discretion of the Board.

The payments shall be made in the following order of preference, unless that order of preference has been varied by the deceased by will or otherwise; namely, to or for the benefit of—

(i) the widow or widower; or

(ii) the children and step-children; or

(iii) the father and mother or the survivor of them; or

(iv) the brothers or sisters.

(4) When the said annuity or gratuity has been paid, the Administration and the fund shall be exempt from any further claim in respect of any amount so paid.

(5) Notwithstanding anything to the contrary in this section contained, if an officer die before his retirement from the service of the Department or after he has retired from the service of the Department on an annuity and shall not leave any such dependents as described in sub-sections (3) (a) and (b) of this section there shall be paid to any person or persons nominated by him in a will an amount equal to his own contributions at the prescribed rate together with simple interest calculated at the rate of three per cent. if he had at the date of his death completed three years' service and at the rate of four per cent. if he had completed five years' service and at the rate of five per cent. if he had completed ten years' service, less the amount (if any) which he may have received in respect of annuity together with any gratuity payable under section *four* of this Ordinance.

**Pensions Payable from Revenue.**

15. The pensions or other benefits payable under the next two succeeding sections shall be charged upon revenue.

\* As substituted by section *one* of Ordinance No. 12 of 1925.

† As amended by section *thirteen* of Ordinance No. 15 of 1918 and section *eleven* of Ordinance No. of 1927.

**Annuities to Officers Retiring in consequence of Injury, etc., Received in Discharge of Duty.**

16. If an officer who makes contributions to the fund would at his retirement from the service of the Department at the age of superannuation have been entitled to an annuity but is compelled to retire therefrom before attaining that age by reason of severe bodily injury or permanent ill-health occasioned in the discharge of and specially attributable to his official duties, the Board shall grant him a pension at the following rate, namely:—

(a) If it appear to the Board that his capacity to contribute to the support of himself and his dependents is totally destroyed, an annuity of not less than half his average annual pensionable emoluments during the whole period of his contributions;

(b) if it appear to the Board that his capacity to contribute to the support of himself and his dependents is materially impaired, an annuity at the rate of at least one-sixtieth of his average annual pensionable emoluments during the whole period of his contributions for each year of employment, and calculated upon those emoluments;

Provided that the contributions made to the fund both by the said officer himself and in respect of the said officer from revenue, together with interest at three and one-half per cent. per annum, shall be repaid to revenue out of that fund.

**Annuities to Widows of Officers Dying in consequence of Injuries, etc., Received in Discharge of Duty.**

17. If an officer who makes contributions to the fund loses his life either from an injury sustained or from an illness contracted in the circumstances described in the last preceding section, the Board shall grant to or for the benefit of such relatives of the deceased officer as are described in sub-section (3) of section *fourteen*, such annuity or gratuity as the necessities of the case may require, but such annuity shall in no case exceed one-half of his average pensionable emoluments during the whole period of his contributions;

Provided that the amount of the contributions made to the fund both by the said officer himself and in respect of the said officer from revenue, together with interest at three and one half per cent. per annum, shall be repaid to revenue out of the fund;

Provided further that the provisions of section *fourteen* shall *mutatis mutandis* apply in respect of the allocation of the annuity or gratuity;

Provided further that any such annuity shall cease—

(a) in the case of a widow on her remarriage;

(b) in the case of a minor who is a male, on his attaining the age of eighteen years; and

(c) in the case of a minor who is a female, on her attaining the age of twenty-one years, or marrying under that age.

*The Board.***Establishment of Board.**

\*18. There shall be a Pensions Board constituted as follows:—

- (1) Two members appointed by the Administrator;
- (2) a member appointed by the Provincial Council who shall be chairman;
- (3) a member appointed by the Transvaalse Onderwysersvereniging who shall be a contributor to the fund;
- (4) a member appointed by the Transvaal Teachers' Association who shall be a contributor to the fund;
- (5) a member appointed by the Transvaal High School Teachers' Association who shall be a contributor to the fund.

Provided that the member appointed by the Provincial Council to the Board as heretofore constituted shall remain in office and be chairman of the Board as constituted in terms of this section until his successor is appointed.

**Functions.**

19. The Board shall administer the Fund and shall carry out any functions and duties assigned to it by this Ordinance and shall have the power to call upon the Provincial Administration for departmental papers, information, and assistance necessary for the purpose.

**Duration.**

†20. The members of the Board shall cease to hold office one month after the date of first meeting of a new Provincial Council; provided that a retiring member shall be eligible for reappointment and shall continue in office until the authority which appointed him has appointed a successor in office or reappointed him.

\* As substituted by section *twelve* of Ordinance No. 17 of 1927.

† As substituted by section *thirteen* of Ordinance No. 17 of 1927.

**Circumstances under which Members Vacate Office.**

21. A member of the Board shall vacate office—

- (a) if he becomes insolvent or assign his estate for the benefit of his creditors;
- (b) if he be declared of unsound mind by a competent court or be convicted of an offence and sentenced to imprisonment therefor without the option of a fine;
- (c) if he be absent from three consecutive ordinary meetings of the Board without the leave of the Board;
- (d) if he give one month's notice in writing to the Board of his intention to resign office.

**Vacancy—how Filled.**

22. Any vacancy on the Board occurring in any way shall be filled by appointment of a member by the same body appointing the member causing the vacancy.

**Remuneration.**

\*23. Every member of the Board shall receive such remuneration or allowance as the Administrator shall approve.

**Chairman, Quorum, Meetings.**

†24. The chairman of the Board shall have a deliberative vote and in the case of equality of votes he shall also have a casting vote. Four members of the Board shall constitute a quorum. Meetings shall be held at least once in every two months. Minutes of proceedings of meetings shall be kept.

*Financial.***Accounts.**

25. (1) The Administration shall cause full and true accounts of the fund to be kept, showing separately:—

- (a) All sums of money received or due and disbursed or repayable in respect of contributing officers, and particulars of the matters and things for which those sums of money have been received or disbursed;
- (b) the dates of payment of the first and all subsequent contributions, together with all chronological and other particulars necessary to admit of proper accounts of the fund being kept in accordance with this Ordinance and the regulations, and to admit of an actuarial valuation of the fund being made at any time;
- (c) All sums of money due to or from revenue in connection with the fund;
- (d) all other matters of account provided for or contemplated in this Ordinance and the regulations.

(2) The Administration shall cause the books and accounts of the fund to be balanced up to the thirty-first day of March in every year, and balance-sheet to be prepared, showing the assets and liabilities of the fund at the date when the balance-sheet is framed.

**Quinquennial Valuation of Fund.**

26. (1) The fund shall be valued as at the thirty-first day of March, 1921, and every five years thereafter by an actuary. The actuary shall report direct to the Board who shall submit such report to the Administration and to the Provincial Council, and shall in his report state the data and processes used in his investigation and valuation. He shall separately value the assets and liabilities of the fund, and shall declare any surplus or deficiency which appears thereon, shall state his opinion why that surplus or deficiency (as the case may be) has arisen, and as to the steps which should be taken to deal with it.

(2) If the actuary's valuation discloses a substantial surplus beyond the requirements likely to arise under this Ordinance or any amendment thereof, the benefits shall be increased or the contributions shall be reduced in such manner as the Provincial Council may direct. If the actuary's valuation discloses a substantial deficiency, the deficiency shall be met, if necessary, in such manner as the Provincial Council may direct;

Provided that no person to whom a pension has been granted shall, in the case of an annuity, have it reduced, or, in the case of a gratuity, be called upon to repay any portion thereof;

Provided further that the contributions from revenue shall never be at a lower rate than is for the time being prescribed as payable by officers.

**Fund to be Administered by the Board.**

27. The business of the fund shall be conducted by the Board and the cost of administering the fund and of any actuarial investigations and matters incidental thereto shall be borne out of revenue.

\* As amended by section *seventeen* of Ordinance No. 15 of 1918.

† As substituted by section *fifteen* of Ordinance No. 17 of 1927.

(Section *two* of Ordinance No. 15 of 1919 provides:—

2. Anything to the contrary notwithstanding in the principal ordinance or any amendment thereof, the duty of accounting for and the power of controlling all moneys paid into or disbursed from the fund or disbursed from revenue shall be vested in the officer appointed as accounting officer for the Education Vote.)

*General.*

**Period of Employment for Pension Purposes.**

28. (1) The period of employment in respect of which a pension shall under this Ordinance be reckoned shall be continuous.

(2) A continuous period of employment shall include the time spent—

(a) on actual duty;

(b) on authorized leave of absence;

(c) under suspension if followed by reinstatement in the same or appointment to another office or post.

(3) A continuous period of employment shall not be regarded as interrupted by authorized leave of absence without pay, but the time spent on such leave shall not be reckoned in calculating a pension unless the officer has contributed for such period to the fund.

**Officers Re-employed.—Annuity to Cease or be Reduced during Period of Re-employment.**

29. If any person be granted an annuity under this Ordinance, and be thereafter employed with his own consent in the Public Service or under the Railway Administration, or any Provincial Administration, then while that subsequent employment continues the annuity shall cease if the emoluments of his office in such subsequent employment be equal to or greater than the emoluments of his office previous to the grant of the annuity. If the emoluments of his office in such subsequent employment be less than the emoluments of his office previous to the grant of the annuity, so much of the annuity as may not exceed the difference between those emoluments shall be payable. On the termination of the said subsequent employment, the whole annuity shall again become payable.

**Pensions, etc., not Assignable or Executable.**

30. No pension, or right to a pension, shall be capable of being assigned or transferred or otherwise ceded, or of being pledged or hypothecated, nor shall the same or any contributions made by an officer be liable to be attached or subjected to any form of execution under a judgment or order of a court of law, and in the event of the beneficiary attempting to assign, transfer, or otherwise cede or to pledge or hypothecate a pension or right, payment of the same may be withheld, suspended, or entirely discontinued, if the Board so determine, provided that the Board may before payment of any annuity or gratuity is made to an officer deduct any sums which may be due to the Administration by such officer.

**How Pensions Affected by Insolvency.**

31. (1) If any person in receipt of an annuity be declared insolvent, the annuity shall forthwith determine:

Provided that in any such case the annuity shall be paid to or for the benefit of all or any of the following persons: namely, the insolvent, his wife or any minor children, or failing a wife or minor children, to any children or other relatives or persons dependent on him for maintenance. If the payment be to the insolvent, it shall be for his own personal use and may not in any way be attached or appropriated by the trustee in insolvency or by his creditors, anything to the contrary notwithstanding in any law relating to insolvency.

(2) Whenever an annuity has determined under this section, it shall be revived on rehabilitation of the insolvent, and he shall receive an annuity at the same rate and under the same conditions as before insolvency.

**Payment of Annuity during Imprisonment.**

32. If a person in receipt of an annuity be convicted by any Court in His Majesty's Dominions of any crime or offence and be sentenced to imprisonment without the option of a fine for any period exceeding one month the annuity shall during such period of imprisonment be payable to his wife or the persons mentioned in sub-section (3) of section *fourteen* if they exist.

**Power to Reduce Suspend Pensions in certain Cases.**

33. If any person be found to have made wilfully a false statement for the purpose of obtaining a pension knowing the statement to be false then the Board may order that the right to any pension to which that person has

become entitled to any annuity of which he is in receipt shall be suspended, reduced, or forfeited:

Provided that such person shall not receive, owing to the exercise of the powers of this section, less, in the case of an annuity, than the annual value calculated actuarially of any sum contributed by him, or less, in the case of a gratuity, than the actual sum contributed by him, in accordance with this Ordinance.

#### **Commutation of Annuities.**

§34. The Board may at the request of the recipient and subject to the production of satisfactory medical certificates commute such portion of any annuity as does not exceed one-third thereof by a single cash payment calculated actuarially according to the period for which the recipient may be expected to draw the annuity.

#### **When Section sixteen or seventeen Do Not Apply.**

35. If under the provisions of Act No. 25 of 1914 or any amendment thereof an officer or his dependents (as therein defined) obtains compensation as therein defined, or if at common law any officer or his dependents obtain damages in respect of any such circumstances as are described in section *sixteen* or *seventeen* of this Ordinance, then the provisions of the said section *sixteen* or *seventeen* shall not apply.

#### **Regulations.**

36. The Administrator at the instance of the Board may make regulations not inconsistent with the provisions of this Ordinance for the efficient carrying out of the objects of this Ordinance.

The following sections have been added:—

(A) *By section two of Ordinance No. 15. of 1918.*

#### **Safeguarding of Rights of certain Teachers not Officers at Fixed Date.**

2. (a) Notwithstanding anything in the principal ordinance contained any teacher who on the 31st December 1916 was employed by the Transvaal Education Department shall be deemed for the purposes of the principal ordinance to be an officer employed in the Department at the fixed date, provided—

(1) that the period of his employment has been continuous;

(2) that he is admitted to the regular teaching staff.

(b) No such teacher who had not reached the age of 40 on the 31st December, 1916, and who is otherwise eligible for admission to the regular teaching staff shall be debarred from admission to the regular teaching staff by any regulation made under Act No. 25 of 1907 or any amendment thereof by reason of his age.

(c) No teacher who is deemed to be an officer in terms of sub-section (a) of this section shall be eligible to contribute to the Teachers' Provident Fund under Act No. 19 of 1908 (Transvaal).

(B) *by sections nineteen and twenty of Ordinance No. 15 of 1918 as amended by section sixteen of Ordinance No. 17 of 1927.*

#### **Providing for Refund of Moneys Paid Out in the case of Discharged Teachers Reinstated in Service.**

19. Notwithstanding anything in the principal ordinance contained any officer who after ten years' service is compelled to retire and is subsequently reinstated in the service of the Department may on the recommendation of the Department and subject to the approval of the Board during the period of his absence from the service of the Department be deemed to have been absent on leave without pay and may resume his contributions to the fund provided that he refunds all moneys received by him on the occasion of his retirement together with such interest as the Board may decide but shall not be permitted to contribute to the fund in respect of the period during which he was out of the service of the Department.

#### **Providing for Recognition of Service of Teachers Transferred from Service of one Province to Another.**

20. (1) If an officer resigns from the service of the Department before reaching the prescribed age and is appointed to the service of any other Education Department of the Union, and if the period between the date of his resignation in the Transvaal and the assumption of duty in the other department is not more than one year, the Board shall, notwithstanding anything in the principal or any amending law contained, on application being made by such officer decide whether the whole or part of the period during which such officer has contributed to the fund may be regarded as pensionable service. If the Board decide that the whole or part of such

\* As substituted by section *twenty-one* of Ordinance No. 15 of 1918.



officer's service in the Transvaal is to be reckoned as pensionable service such officer shall on reaching the prescribed retiring age, provided he has continued to teach under such other department or has only ceased to do so on account of ill-health or on account of reaching the retiring age prescribed by such department be entitled to the payment of an annuity based on his average pensionable emoluments for the last seven years of his period of contributions to the fund any such annuity shall be calculated at the rate of one-sixtieth of these average pensionable emoluments for each year of contribution.

(2) The provisions of sub-section (1) of this section shall not take effect unless the Education Department or Education Departments of the other Provinces of the Union to which the teacher transfers his service have made similar provisions for teachers transferred from their service to the service of the Transvaal Education Department, provided that until such provision has been made an officer who has had satisfactory service under an Education Department of another province may be allowed to contribute to the fund in respect of so much of his service as the Board may approve and on such terms as the Board may approve, provided that the officer's own contributions at the prescribed rate and the contributions which would have been made from revenue in respect of such approved service if the officer had been in the employment of the Transvaal Education Department shall be paid by the officer together with interest at the rate of five per cent. per annum compounded annually up to the date of payment.

*And the following added by sections seventeen, eighteen and nineteen of Ordinance No. 15 of 1918, as amended by section seven of Ordinance No. 12 of 1928.*

**Extension of Application of Section twenty of Ordinance No. 15 of 1918.**

17. Section *twenty* of the Transvaal Teachers' Pensions Amendment Ordinance No. 15 of 1918 shall *mutatis mutandis* apply to teachers transferred to or from the service of the Department of Education of the Union or of the mandated territory.

**Provision for Readmission to Fund of Transferred Officers.**

18. Any officer who was a contributor to the fund and who was transferred from the service of the Education Department to the service of the Union Department of Education and has been subsequently transferred or re-appointed to a post on the regular teaching staff of the Education Department may subject to the approval of the Board and subject to the provisions of the principal Ordinance as from time to time amended be readmitted to the fund on the same terms and conditions as existed at the date of transfer to the Union Department of Education and retain his existing and accruing rights; provided that—

(1) the officer shall repay to the fund the amount which was paid out of the fund on his behalf to the Union Education Department together with interest at the rate of five per cent. per annum compounded annually from the date of withdrawal to the date of repayment;

(2) the officer's own contributions at the prescribed rate and the contributions which would have been made from revenue shall be paid by the officer together with interest at the rate of five per cent. per annum compounded annually in respect of the periods—

(a) during which he was serving under the Union Department of Education; and

(b) from the date he was transferred to the service of the Education Department up to the date in respect of which the first monthly deduction is made.

Any sums payable from any other pension or provident fund or from the Consolidated Revenue Fund of the Union in respect of such officer may be utilized towards the liquidation of the amounts payable by the officer to the fund.

**Officers Transferred to or from Public Service.**

19. (1) Any person who has been serving in the Public Service of the Union and who is transferred from such service to the regular teaching staff of the Department and whose age on transfer is under forty years in the case of males or under thirty-five in the case of females shall contribute to the fund at the scales prescribed in sub-section (1) of section *two*.

(2) Any person transferred as aforesaid whose age on transfer is forty years or over in the case of males, or thirty-five years or over in the case of females may, within three months after the date of his transfer, elect to contribute to the fund but it shall not be obligatory upon him to do so.

Provided that all the contributions in respect of any period within which under this sub-section such person has been making his election shall be paid by the officer at the end of the month in which he notifies his intention of

contributing notwithstanding anything to the contrary in the principal Ordinance contained.

Provided further that any person who elects to contribute under this sub-section shall make contributions in accordance with the scales prescribed in section *two*.

(3) Any person transferred as aforesaid, whose age on transfer is fifty years or over in the case of males, or forty-five years or over in the case of females, shall be allowed to contribute to the fund from the date of his transfer notwithstanding anything contained in the principal Ordinance; provided that the basis of contribution to the fund shall be fixed by the Board after consultation with the actuary.

(4) Any person who is transferred as aforesaid shall be allowed to reckon his service in the Public Service of the Union or a portion of it approved by the Board as continuous with his future service; provided that the officer's own contributions at the prescribed rate and the contributions which would have been made from revenue in respect of such service shall be paid by or on behalf of the officer together with interest at the rate of five per cent. per annum compounded annually up to the date of payment.

(5) If an officer is transferred to the Public Service of the Union the Administration may pay to the Treasury on behalf of such officer an amount not greater than double his contributions together with interest at five per cent. compounded annually.

*Section three of Ordinance No. 17 of 1930 provides:—*

**Refund of Teachers' Contributions in certain Circumstances.**

3. Every teacher, who after the completion of a course of training in an institution maintained by the Department, in terms of section *twenty-six* of the Education Act, No. 25 of 1907, had after the 1st January, 1929, been appointed to a post in terms of section *seventy-nine* of the Education Act, No. 25 of 1907, and was at the date of the coming into force of this Ordinance making contributions to the fund in accordance with the provisions of paragraph (a) of sub-section (6) of section *three* of the Transvaal Teacher's Pensions Ordinance, No. 5 of 1916, as added by section two of the Transvaal Teacher's Pensions Amendment Ordinance, No. 12 of 1928, shall as from such date no longer make such contributions and shall be refunded the amount of his own contributions to the fund together with interest at the rate of three per cent. per annum calculated up to the date of the coming into force of this Ordinance, and the amount of the contributions paid by the Administration in respect of such teacher shall be refunded to revenue together with interest at the rate of three per cent. calculated up to the date of the coming into force of this Ordinance.

**Short Title and Date of Operation.**

37. This Ordinance may be cited for all purposes as the Transvaal Teachers' Pensions Ordinance, 1916, and shall commence and come into operation on a date to be fixed by proclamation in the *Provincial Gazette*.

**No. 6 of 1916.—Local Government Amendment.—Repealed by Ordinance No. 11 of 1926.**

**No. 7 of 1916.—Second Appropriation (Part 1916-1917).**

**No. 8 of 1916.—Third Appropriation (Part 1916-1917).**

**No. 9 of 1916.—Local Authorities Land.—Repealed by Ordinance No. 12 of 1917.**

**No. 10 of 1916.—Appropriation (1916-1917).**

**No. 11 of 1916.—Wheel Tax.—Repealed by Ordinance No. 5 of 1936.**

**No. 12 of 1916.—General Dealers' Licences.—Repealed by Ordinance No. 17 of 1917.**

**No. 13 of 1916.—Additional Appropriation (1916-1917).**

**No. 14 of 1916.—Shop Hours.—Repealed by Ordinance No. 5 of 1923.**

**No. 15 of 1916.]**

[Assented to 19th December, 1916.]

**AN ORDINANCE**

**\*To Enforce the Application by Municipalities, Hospital Boards, the Warmbaths Board of Trustees and other Public Bodies of Section 137 of the South Africa Act, 1909.**

BE IT ENACTED by the Provincial Council of Transvaal as follows:—

**Interpretation of Terms.**

†1. In this Ordinance unless inconsistent with the context the words "municipality", "council", "town councillor", and "town clerk" shall have the meanings respectively assigned thereto in Ordinance No. 9 of 1912 or any amendments thereof, and furthermore the word

\* As amended by section *one* of Ordinance No. 8 of 1933.

† As amended by section *two* of Ordinance No. 8 of 1933.

“board” shall mean a hospital board constituted under the Public Hospitals Ordinance, 1923, or any amendment thereof and shall include the Warmbaths Board of Trustees constituted under the Warmbaths (Control and Management) Ordinance, 1929, or any amendment thereof and shall further include any other board, council, committee or public body constituted under any Provincial Ordinance, proclamation or regulation to which the Administrator has by Proclamation in the *Provincial Gazette* applied the provisions of this Ordinance;

“municipal officer” shall include an officer of the board;

“municipality” shall include the area of jurisdiction of a village council or a health committee and in relation to a board means the town or place in which is situate the headquarters of the board;

“council” shall include a village council or a health committee or a board;

“town councillor” shall include a member of a village council or of a health committee or of a board;

“town clerk” shall include the clerk or the official who does the work of a clerk of a village council or of a health committee and shall further include a superintendent or secretary of a board.

#### All Information and Forms to be in both Official Languages.

\*2. (1) From and after coming into force of this Ordinance all information intended to be brought to the notice of the public by the council of any municipality shall be given and all forms issued by the council of any municipality and intended for the use of the public shall be available in both the official languages of the Union; all requests for information from any municipality by any member of the public in one of the said official languages in writing shall be replied to in that language, and where such information is sought verbally the municipal officer addressed shall reply in that one of the official languages in which he is addressed and where he is unable to do so he shall reply through some other officer or white person in such language wherever practicable; provided that any notice required to be published by a council in a newspaper circulating in the municipality shall be published both in Afrikaans in such a paper printed in Afrikaans and in English in such a paper printed in English. Where, however, both official languages are regularly used as media of expression in any newspaper which, upon the application of any council, is classified for the purposes of this section by the Administrator by notification in the *Provincial Gazette* as a bilingual newspaper such notice may be published therein in both official languages.

(2) Where one or more of the members of the council of any municipality request it, the minutes of the council shall be kept in both official languages, and also read or circulated in those languages, unless the members resolve by a majority of votes to read or circulate the minutes alternately in the Dutch and English languages, or unanimously resolve to read or circulate them only in one of those languages.

#### Town Clerk to be Responsible for Omission.

3. In case of any contravention of section two of this Ordinance the town clerk of the municipality within which such contravention occurs shall be responsible and in case the said contravention shall be proved he shall be punished—

(a) for the first contravention with a fine of one pound or in default of payment seven days' imprisonment with or without hard labour;

(b) for a second contravention with a fine of five pounds or in default of payment one month's imprisonment with or without hard labour;

(c) for a third contravention with a fine of ten pounds or in default of payment two months' imprisonment with or without hard labour;

(d) for a fourth or subsequent contravention with a fine of twenty-five pounds or in default of payment six months' imprisonment with or without hard labour.

#### Conditions of Prosecution.

4. No prosecution shall be instituted against a town clerk under this Ordinance unless—

(a) he shall have received a written notice of the omission complained of containing a clear exposition of the particulars of the said omission and shall not have rectified the said omission within thirty days after he shall have received the said notice;

(b) the public prosecutor of the magistrate's court of the district in which the municipality affected is situated shall within three weeks after the expiration of the period of thirty days mentioned in sub-section (a) of this section have received a petition in which he is requested to institute a prosecution signed in duplicate by

(i) at least twenty-five registered voters of the municipality affected, and

\* As amended by section one of Ordinance No. 5 of 1918 and section three of Ordinance No. 8 of 1933

- (ii) a Transvaal member of the Parliament of the Union or a member of the Transvaal Provincial Council;
- (c) the town clerk shall have received a copy of such petition.

**Petition to be Accompanied by a Copy of Notice.**

5. The petition mentioned in sub-section (b) of the last preceding section shall be accompanied by a copy of the notice mentioned in sub-section (a) of the said section.

**Private Prosecution in case Public Prosecutor does not Prosecute.**

6. Should the public prosecutor fail to institute a prosecution as requested in the said petition for a period of fourteen days after he shall have received the same any person who shall have signed the petition may institute a prosecution. Should the public prosecutor not give notice in writing within the said fourteen days to the person from whom he shall have received the petition that he intends to institute the said prosecution he shall be taken to have failed to institute the said prosecution.

**Town Clerk to Notify Council.**

7. Any town clerk receiving the notice mentioned in sub-section (a) of section four shall notify his council to that effect at its next ordinary meeting and such notification shall be recorded in the minutes of the council.

**Town Clerk may Prove that Council Prevented Him.**

8. Should any town clerk be prevented from rectifying the omission complained of by any act, resolution, wilful omission to pass any resolution or any other wilful omission on the part of his council or any member thereof the court shall subject to the provisions of the next succeeding section find him not guilty; provided that the prosecutor may institute a prosecution against one or more of the members of the said council by whom the town clerk was prevented as above set forth simultaneously with the prosecution against the said town clerk and the court shall if necessary postpone the case for this purpose.

**Court to Decide on whom Responsibility for Omission Rests.**

9. In case of such a prosecution instituted against one or more councillors the court which hears the case shall decide on whom the responsibility for the omission rests and the person or persons responsible shall be punished each with the penalties laid down in section three; provided however that the onus of proving that and by whom he was prevented from rectifying the omission shall rest upon the town clerk and that should he fail in discharging the said onus he shall be convicted and punished as laid down in this Ordinance.

**Saving as to Employees.**

10. Notwithstanding anything to the contrary in this Ordinance contained, no English-speaking employee of a municipality shall be discharged on account of a lack of knowledge of Dutch, and no Dutch-speaking employee shall be discharged on account of a lack of knowledge of English.

**Onus on Accused re Section four.**

11. The onus of proving that section four has not been complied with shall be on the accused.

**Short Title and Date of Operation.**

12. This Ordinance may be cited for all purposes as the Local Authorities (Language) Ordinance, 1916, and shall come into operation on a date to be fixed by Proclamation of the Administrator in the *Provincial Gazette*.

**No. 16 of 1916.—Education Act Amendment.**

**No. 1 of 1917.—Additional Appropriation (1916-1917).**

**No. 2 of 1917.—Unauthorized Expenditure (1915-1916).**

**No. 3 of 1917.—Appropriation (Part 1917-1918).**

**No. 4 of 1917.—Local Authorities Rating Amendment.—Repealed by Ordinance No. 13 of 1928.**

**No. 5 of 1917.—Shop Hours Amendment.—Repealed by Ordinance No. 5 of 1923.**

**No. 6 of 1917.—Hospital Nurses Relief.—Repealed by Ordinance No. 18 of 1928.**

**No. 7 of 1917.—Second Appropriation (1917-1918).**

**No. 8 of 1917.—Third Appropriation (1917-1918).**

**No. 9 of 1917.—Municipal Elections Amendment.—Repealed by Ordinance No. 4 of 1927.**

**No. 10 of 1917.—Hospital Committees.—Repealed by Ordinance No. 18 of 1928.**

**No. 11 of 1917.—Horse Racing and Betting Restriction Amendment.—Repealed by Ordinance No. 9 of 1927.**

**No. 12 of 1917.—Local Government Amendment.—***Repealed by Ordinance No. 11 of 1926.*

**No. 13 of 1917.—Fourth Appropriation (Part (1917-1918)).**

**N. 14 of 1917.—Education Act Amendment.**

**No. 15 of 1917.—Fifth Appropriation (Part 1917-1918).**

**No. 16 of 1917.—Licensing of Bookmakers and Taxation.—***Repealed by Ordinance No. 26 of 1925.*

**No. 17 of 1917.—General Dealers' Licences.—***Superseded by Act No. 32 of 1925.*

**No. 18 of 1917.1**

[Assented to 15th December, 1917.]

### AN ORDINANCE

**To Provide for the Imposition of a Tax based on Charges for Admission to Racecourses.**

BE IT ENACTED by the Provincial Council of Transvaal as follows:—

#### Interpretation of Terms.

1. In this Ordinance, unless inconsistent with the context—

“ Administrator ” shall mean the officer appointed under section *sixty-eight* of the South Africa Act, 1909, or any amendment thereof acting on the authority of the Executive Committee

“ Admission ” shall mean the admission of any person to a racecourse after payment of the charge or annual subscription referred to in sub-section (2) (a) of section *two* of the Horse Racing and Betting Restriction Amendment Ordinance 1917.

“ Commissioner ” shall mean the Commissioner for Inland Revenue or any other person lawfully acting in that capacity.

“ Licensee ” shall mean the person in whose name a licence shall have been granted under the provisions of the Horse Racing and Betting Restriction Act, 1909, or any amendment thereof; provided that such licence contains the conditions prescribed in sub-section (2) (a) of section *two* of the Horse Racing and Betting Restriction Amendment Ordinance, 1917.

“ Racecourse ” shall mean the land in respect of which a licence to hold race meetings shall have been granted under the provisions of the Horse Racing and Betting Restriction Act, 1909, or any amendment thereof; provided that the licence so granted contains the conditions prescribed in sub-section (2) (a) of section *two* of the Horse Racing and Betting Restriction Amendment Ordinance, 1917.

#### Licensee to Furnish Returns and Lodge Security.

2. (1) On and after the date of the commencement of this Ordinance no person shall be admitted to any racecourse on a day on which a race meeting is being held unless and until the licensee

(a) has made arrangements approved by the Commissioner for the furnishing of returns of the number of persons admitted to the racecourse and of the amount paid for such admission during any period which may be prescribed by the Commissioner and has lodged security to the satisfaction of the Commissioner for the payment of the tax imposed under this Ordinance;

(b) is in possession of a receipt signed by the Commissioner acknowledging that the security as aforesaid has been lodged.

(2) If any person is granted admission to a racecourse in contravention of the provisions of this section the licensee shall be guilty of an offence against this Ordinance and shall on conviction be liable to a fine not exceeding fifty pounds or in default of payment to imprisonment with or without hard labour for a period not exceeding six months.

(3) In the case of a conviction under the provisions of this section the Administrator may cancel any licence to hold race meetings which may have been issued to the licensee under the provisions of the Horse Racing and Betting Restriction Act, 1909, or any amendment thereof.

(4) It shall be lawful for the Commissioner to retain for the benefit of the Provincial Revenue Fund any amount lodged as security under the provisions of this section in payment or part payment of any tax due under this Ordinance by the licensee lodging the security.

#### Levy of Tax on Payments for Admission to Racecourses.

3. As from the date of the commencement of this Ordinance there shall be charged, levied, and paid for the benefit of the Provincial Revenue Fund a tax calculated at the rate of twenty per cent. on all payments made by persons in respect of admission to a racecourse on a day on which any race meeting is being held. The tax shall be paid by the licensee in such manner and at such times as the Administrator may by regulation prescribe.

**Recovery of Tax.**

4. The tax payable under the provisions of this Ordinance shall be deemed to be a debt due to the Provincial Administration of Transvaal and may be sued for and recovered in any court of competent jurisdiction.

**Right to Enter Racecourse.**

5. It shall be lawful for the Commissioner or any official duly authorized thereto by him in writing to enter a racecourse at reasonable times whether or not a race meeting is proceeding with the object of ascertaining whether the provisions of this Ordinance or any regulations made thereunder are being or have been complied with. If any person shall prevent or obstruct the entry of any official so authorized he shall be guilty of an offence against this Ordinance.

**Commissioner may Demand Production of Books, etc.**

6. The Commissioner may authorize in writing any official to call upon a licensee to produce for inspection any books, documents, or other papers used in connection with the holding of race meetings, and any person who refuses to produce or allow such official to inspect any such books, documents or papers or any machine or turnstile shall be guilty of an offence against this Ordinance.

**Fines, etc., Paid into Provincial Revenue Fund.**

7. All fines and fees received under the provisions of this Ordinance or any regulations made thereunder shall be paid into the Provincial Revenue Fund.

**Penalties.**

8. Any person who is convicted of an offence against this Ordinance or any regulation made thereunder for which no penalty is specifically provided 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.

**Administratrar may Make Regulations.**

9. (1) The Administrator may make, alter and rescind regulations not inconsistent with the provisions of this Ordinance:

(a) for prescribing any forms or statements which he may deem necessary for the proper carrying out of the provisions of this Ordinance and for compelling any licensee to lodge such forms or statements at such times and to such persons as may be prescribed;

(b) for compelling the use of barriers or mechanical contrivances approved by the Commissioner for admitting persons to racecourses and for securing proper returns of all persons so admitted;

(c) for securing the payment of any tax payable under the provisions of this Ordinance and prescribing the manner in which such payment shall be made and generally for the carrying out of the provisions of this Ordinance.

(2) Any regulations made under the provisions of this Ordinance may provide penalties, not exceeding those mentioned in section *eight*, in the case of breach thereof.

**Regulations to be Published and to be Tabled in Provincial Council.**

10. All regulations made under the provisions of this Ordinance or any alteration or rescission thereof shall be published in the *Provincial Gazette* and shall within seven days after such publication be laid on the table of the Provincial Council if the Council be then in session or if it be not in session within seven days after the commencement of its next ensuing session or meeting. Any such regulations or any alteration or rescission thereof shall continue of full force and effect unless and until during the session in which they have been laid on the table as hereinbefore provided the Provincial Council shall have by resolution disapproved of the terms of such regulations or of such alteration or rescission thereof.

**Short Title.**

11. This Ordinance may be cited for all purposes as the Admission to Racecourses (Taxation) Ordinance, 1917, and shall come into operation on such date as the Administrator may by regulation declare

**No. 19 of 1917.—House and Bachelor Tax.—Repealed by Ordinance No. 16 of 1918.**

**No. 20 of 1917.—Appropriation (1917-1918).**

**No. 21 of 1917.—Game Preservation Amendment.—Repealed by Ordinance No. 11 of 1935.**

**No. 22 of 1917.—Excess Profits Tax.—Repealed.**

**No. 1 of 1918.—Additional Appropriation (1917-1918).**

**No. 2 of 1918.—Appropriation (Part 1918-1919).**

**No. 3 of 1918.—Second Appropriation (Part 1918-1919).**

**No. 4 of 1918.—Municipal Elections Amendment.—Repealed by Ordinance No. 4 of 1927.**

**No. 5 of 1918.—Local Authorities (Language) Amendment.**

*Section 1.—Amends section two of Ordinance No. 15 of 1916.*

*Section 2.—Short Title.*

**No. 6 of 1918.—Local Government Amendment.—Repealed by Ordinance No. 11 of 1926.**

**No. 7 of 1918 and } Horseracing and Betting Restriction  
No. 8 of 1918 } Amendment.—Repealed by Ordinance No. 9 of 1927.**

**No. 9 of 1918.—Game Preservation Amendment.—Repealed by Ordinance No. 11 of 1935.**

**No. 10 of 1918.—Betting Taxation.—Repealed by Ordinance No. 26 of 1925.**

**No. 11 of 1918.—Appropriation (1918-1919).**

**No. 12 of 1918.—Local Authorities Rating Further Amendment.—Repealed by Ordinance No. 13 of 1928.**

**No. 13 of 1918.—Betting.—Repealed by Ordinance No. 9 of 1927.**

**No. 14 of 1918.—Provincial Gold Profits Tax.—Repealed by Act No. 5 of 1921.**

**No. 15 of 1918.—Transvaal Teachers' Pensions Amendment.—Principal Ordinance No. 5 of 1916.**

*Section 1.—Amends Section one of the Principal Ordinance.*

*Section 2.—Safeguards the rights of certain teachers not officers at the fixed date. The full text of this section is incorporated in the Principal Ordinance and follows on section thirty-six thereof.*

*Section 3.—Amends section three of the Principal Ordinance.*

*Section 4.—Amends section four of the Principal Ordinance.*

*Section 5.—Repeals and substitutes section five of the Principal Ordinance.*

*Section 6.—Amends section six of the Principal Ordinance.*

*Section 7.—Substitutes a new section seven in the Principal Ordinance.*

*Section 8.—Amends section eight of the Principal Ordinance.*

*Section 9.—Amends section eight of the Principal Ordinance.*

*Section 10.—Amends section ten of the Principal Ordinance.*

*Section 11.—Amends section twelve of the Principal Ordinance.*

*Section 12.—Amends section thirteen of the Principal Ordinance.*

*Section 13.—Amends section fourteen of the Principal Ordinance.*

*Section 14.—Amends section eighteen of the Principal Ordinance.*

*Section 15.—Repealed by section thirteen of Ordinance No. 17 of 1927.*

*Section 16.—Repealed by section fourteen of Ordinance No. 18 of 1927.*

*Section 17.—Amends section twenty-three of the Principal Ordinance.*

*Section 18.—Amends section twenty-four of the Principal Ordinance.*

*Section 19.—Provides for the refund of money paid out in the case of discharged teachers reinstated in service. Full text incorporated in the revised print of the Principal Ordinance after section two of this Ordinance following on section thirty-six of the Principal Ordinance.*

*Section 20.—Provides for recognition of service of teachers transferred from service of one Province to another. Full text incorporated in the revised print of the Principal Ordinance and follows on the last-mentioned section.*

*Section 21.—Substitutes a new section thirty-four in the Principal Ordinance.*

*Section 22.—Applicability of certain sections. Full text incorporated in the revised print of the Principal Ordinance and follows on section nine thereof.*

*Section 23.—Short Title.*

**No. 16 of 1918.—Dwelling House and Bachelor Tax.—Repealed by Ordinance No. 8 of 1920.**

**No. 1 of 1919.—Appropriation (Part 1919-1920).**

**No. 2 of 1919.—Additional Appropriation (1918-1919).**

**No. 3 of 1919.—Unauthorized Expenditure (1917-1918).**

**No. 4 of 1919.—Second Appropriation (1919-1920).**

**No. 5 of 1919.—Increment Value Duty.—Repealed by Ordinance No. 7 of 1920.**

[Assented to 21st June, 1919.]

No. 6 of 1919.]

**AN ORDINANCE****To Provide for the Registration of Private Hospitals and for the Regulation of the Employment of Nurses therein.**

BE IT ENACTED by the Provincial Council of Transvaal as follows:—

**Definitions.**

\*1. In this Ordinance unless inconsistent with the context:

“Administrator” shall mean the officer appointed under section *sixty-eight* of the South Africa Act or any amendment thereof acting on the authority of the Executive Committee of the Province.

“Day duty” shall mean any duty during the hours of 7 a.m. to 8 p.m.

“Hospital” shall mean any institution in which six or more beds are provided for persons requiring medical attention and/or skilled nursing, provided that the term “hospital” shall not include any hospital mentioned in the schedule to this Ordinance or to any hospital which is maintained wholly from Provincial or other public funds.

“Hospital” shall mean any institution in which provision is made or which is intended for the reception or admission of six or more persons for the purpose of receiving medical attention and/or who require skilled nursing; provided that the term “hospital” shall not include any hospital mentioned in the schedule to the Hospital Committees Ordinance, 1915, or to any hospital which is maintained wholly from Provincial or other public funds.

“Manager” shall mean the person responsible for the management of a hospital.

“Night duty” shall mean any duty during the hours of 8 p.m. to 7 a.m.

“Nurse” shall mean any white person employed in a hospital for the purpose of or who is engaged in the nursing of patients therein.

“Temporary manager” shall mean any person nominated by the manager as the person for the time being having the management of a hospital.

**Certificate of Registration.**

2. (1) From and after the commencement of this Ordinance it shall not be lawful for any person to open or keep open any hospital unless such person shall be in possession of a certificate of registration, which shall be issued by the Administrator, and which shall be in such form as may be prescribed by regulation. Any application to the Administrator for a certificate under the provisions of this section shall be made in the form which may be prescribed by regulation.

(2) No charge shall be made for any certificate issued under the provisions of this section, and any such certificate shall be issued in the name of the manager of the hospital.

(3) any certificate issued as aforesaid shall be of force and effect, subject to the provisions of the next succeeding section, for a period of one year from the date of issue, and may be renewed by the Administrator for a like period.

(4) Any person who opens or keeps open any hospital in contravention of the provisions of this section shall be guilty of an offence against this Ordinance.

**Certificate may be Cancelled.**

3. The Administrator may cancel a certificate issued under the provisions of the preceding section in the event of the manager thereof being convicted of an offence against this Ordinance, or who shall fail to transmit to the Administrator when called upon to do so any statements, returns or information which may be required in terms of this Ordinance or any regulation made thereunder.

**Inspection of Hospital.**

4. Any person authorized thereto in writing by the Administrator may enter any hospital at any time for the purpose of ascertaining whether the provisions of this Ordinance or any regulations made thereunder are being complied with and any person who obstructs such person in the exercise of the powers conferred by this section shall be guilty of an offence.

**Nurses' Hours.**

5. (1) (a) It shall not be lawful for any manager to employ or permit to be employed any nurse for more than six days or six nights in any one week.

(b) No nurse shall be employed on both day duty and night duty during any period of 24 hours.

(c) Every nurse shall be entitled to three consecutive hours excluding meal hours off duty during any period of day duty.

\* As amended by section *one* of Ordinance No. 7 of 1926.



\* (2) Anything to the contrary contained in this section notwithstanding, a manager of any hospital which is maintained partly from funds provided by the Provincial Administration may with the permission in writing of the Administrator permit a nurse to accumulate the leave prescribed in paragraph (a) of sub-section (1) of this section not exceeding four days or four nights, as the case may be, and such manager may also with the written approval of the Administrator reduce the consecutive hours prescribed in paragraph (c) to two hours.

(3) In addition to the leave prescribed in this section, a nurse shall be entitled to leave of absence with full pay for a period of twenty-one days in respect of each twelve months' continuous service with the same employer.

(4) Any manager who employs or permits any nurse to be employed in contravention of the provisions of this section shall be guilty of an offence against this Ordinance.

#### **Register to be Kept.**

6. (1) The manager of any hospital shall keep a register in such form as may be prescribed by the Administrator for the purpose of keeping a record of the hours worked by the nurses employed therein.

(2) It shall be the duty of every nurse to make in ink or indelible pencil entries in the register aforesaid at such time and in such manner as may be prescribed by regulation.

(3) Any register as aforesaid shall be available at any time and may be inspected by any officer appointed by the Administrator as provided in section four of this Ordinance and any manager who fails to keep such a register or who refuses to allow any officer as aforesaid to inspect such register or any nurse who fails to make such entries as may have been prescribed, or who makes any false entry shall be guilty of an offence against this Ordinance.

#### **Overtime.**

7. Notwithstanding anything to the contrary in this Ordinance, it shall be lawful to employ a nurse at any time in contravention of the provisions hereof when the condition of any patient warrants such a course; provided that on each such occasion the manager shall make a special entry in the register kept under the provisions of this Ordinance and shall report the circumstances as soon as possible to the medical attendant of the patient. Any manager who fails to carry out the provisions of this section shall be guilty of an offence against this Ordinance.

#### **Temporary Manager.**

8. In the event of a manager relinquishing charge of a hospital for any period he shall nominate a temporary manager by entry to that effect in the register, referred to in section six, specifying the period during which such temporary manager shall have the management of the hospital and any references in this Ordinance to the manager shall during such period apply to such temporary manager. In default of nomination of a temporary manager in manner aforesaid the manager shall himself be responsible.

#### **Provisions of this Ordinance not in Conflict with Ordinance No. 9 of 1912.**

9. The provisions of this Ordinance shall not be deemed to repeal the powers conferred on any local authority by the Local Government Ordinance, 1912, or any amendment thereof to make by-laws for the granting of licences to private hospitals or nursing homes and for regulating such hospitals and nursing homes except in so far as the hours of employment of nurses are concerned and the possession of any certificates of registration issued under the provisions of this Ordinance shall not entitle a manager to open or keep open any hospital in contravention of any by-laws lawfully made by any local authority.

#### **Penalty.**

10. Any person who is guilty of an offence against this Ordinance or any regulations made thereunder shall, on conviction, be liable to a fine not exceeding fifty pounds or in default of payment to imprisonment with or without hard labour for a period not exceeding three months; provided that in the case of a contravention of the provisions of sub-section (2) of section six the penalty shall be a fine not exceeding two pounds or in default of payment imprisonment without hard labour for a period not exceeding three days.

#### **Regulations.**

11. The Administrator may make, alter and rescind regulations not inconsistent with the provisions of this Ordinance in respect of the following matters and generally for the better carrying out of the provisions of this Ordinance:—

(a) for prescribing the form of any register or form required by this Ordinance;

(b) for prescribing the entries to be made in any register and the manner

\* As amended by section two of Ordinance No. 7 of 1926.

in which such entries shall be made;

(c) for obtaining any information which may be required by the Administrator with the view to ascertaining whether the provisions of this Ordinance are carried out.

Any regulations made under the provisions of this Ordinance which may provide for the imposition of penalties for the breach thereof.

(2) All regulations made under the provisions of this Ordinance or any alterations or rescission thereof shall be published in the *Provincial Gazette* and shall within seven days after such publication be laid on the table of the Provincial Council if the Council be then in session or if it be not in session within seven days after the commencement of its next ensuing session or meeting. Any such regulations or any alteration or rescission thereof shall continue of full force and effect unless and until during the session in which they have been laid on the table as hereinbefore provided the Provincial Council shall have by resolution disapproved of the terms of such regulations or of such alteration or rescission thereof.

#### Short Title.

12. This Ordinance may be cited for all purposes as the Private Hospitals Ordinance, 1919.

#### SCHEDULE.

Barberton.  
Boksburg.

Germiston.  
Johannesburg.

Klerskdorp.  
Krugersdorp.

Pietersburg.  
Pretoria.

No. 7 of 1919.—Municipal Elections Amendment.—*Repealed by Ordinance No. 4 of 1927.*

No. 8 of 1919.—Local Government Amendment.—*Repealed by Ordinance No. 11 of 1926.*

No. 9 of 1919.—Local Authorities Rating Amendment.—*Repealed by Ordinance No. 13 of 1928.*

No. 10 of 1919.—Shop Hours Amendment.—*Repealed by Ordinance No. 5 of 1923.*

No. 11 of 1919.—Licensing.—*Superseded by Act No. 32 of 1925.*

No. 12 of 1919.—Appropriation (1919-1920).

No. 13 of 1919.]

[Assented to 13th November, 1919.]

#### AN ORDINANCE

To Provide for the Payment of Retiring Allowances and Financial Benefits to Nurses Serving in Provincial Hospitals of Transvaal under Committees Appointed under Ordinance No. 10 of 1917.

BE IT ENACTED by the Provincial Council of Transvaal as follows:—  
Interpretation of Terms.

\*1. In this Ordinance unless inconsistent with the context—

“actuary” shall mean a Fellow of the Institute of Actuaries of London or of the Faculty of Actuaries in Scotland, or any other person recognized as an actuary by the Governor-General;

“Administrator” shall mean the officer appointed under sub-section (1) of section *sixty-eight* of the South Africa Act, 1909, or any amendment thereof, acting on the advice and with the consent of the Executive Committee of the Province;

“Administration” shall mean the Transvaal Provincial Administration;

“aided hospital” shall mean an aided hospital as defined in section *two* of the Public Hospitals Ordinance No. 18 of 1928;

“annuity” shall mean the annual sum payable during the lifetime of a retired or retiring nurse;

“board” shall mean the board as defined in section *two* of the Public Hospitals Ordinance No. 18 of 1928;

“contributions”—*Repealed by section two of Ordinance No. 4 of 1923;*

“fixed date” shall mean the date fixed under this Ordinance for the establishment of the fund, provided that with reference to a nurse who was employed in an aided hospital on the 31st day of December, 1928, it shall mean the 1st day of April, 1929;

“the fund” shall mean the fund established under this Ordinance;

“interest” shall mean in contradistinction to compound interest simple interest;

“medical officer” shall mean any duly qualified medical practitioner;

“nurse” shall mean

(a) in respect of the period prior to the 1st day of January, 1929, a female person registered under any law governing the registration of nurses in South Africa and exclusively employed on the regular nursing staff of a provincial hospital;

\* As amended by section *one* of Ordinance No. 9 of 1929.

(b) in respect of the period commencing the 1st day of January, 1929, a female person exclusively employed in accordance with the provisions of section *thirty-two* of the Public Hospitals Ordinance, No. 18 of 1928, on the regular nursing staff of a hospital administered by a board;

"provincial hospital" shall mean a provincial hospital as defined in section *two* of the Public Hospitals Ordinance No. 18 of 1928;

"officer" shall mean a person (male or female) attached exclusively for nursing duties to the regular nursing staff of a hospital administered by a committee appointed by the Administrator in terms of section *three* of Ordinance No. 10 of 1917, but shall not include "nurse" or "probationer";

"this Ordinance" shall include regulations;

"pension" shall mean an annuity or gratuity or both as the context requires;

"probationer" shall mean a female person undergoing training in a hospital administered by a committee appointed by the Administrator in terms of section *three* of Ordinance No. 10 of 1917 and which is recognised as a training institution by the Transvaal Medical Council;

"pensionable emoluments" shall include

(a) salary;

(b) ration allowances or the value of free rations;

(c) allowances for quarters or the estimated value of free quarters;

(d) uniform allowance or the estimated value of free uniforms;

(e) laundry allowance or the estimated value of free laundry;

but shall not include—

(i) any local allowance for the cost of living; or

(ii) any special remuneration which a nurse may receive for performing special duties or while acting in an office, whether permanently or temporarily vacant; or

(iii) any transport or subsistence allowance; or

(iv) fees, honoraria, or bonuses of any kind; or

(v) overtime payment; or

(vi) any other allowance not herein specified;

"prescribed" shall mean prescribed by or under the authority of this Ordinance or any other law;

"regular nursing staff" shall mean—

(a) in respect of the period prior to the 1st day of January, 1929, the nurses permanently employed in a provincial hospital;

(b) in respect of the period commencing the 1st day of January, 1929, the nurses permanently employed in a hospital administered by a board;

"regulation" shall include a regulation made and in force under this Ordinance;

"revenue" shall mean the Provincial Revenue Fund as constituted under section *eighty-nine* of the South Africa Act, 1909;

"salary" shall mean the annual pay of a nurse or officer, or probationer, and shall include any special or personal allowances, if such allowances when granted be specially declared to be part of her pensionable emoluments;

"superannuation" shall mean in relation to a nurse the attainment of the age fixed by this Ordinance for the retirement from the regular nursing staff of such a nurse.

#### THE FUND.

##### Establishment of the Fund.

\*2. (1) There shall be established as from a date to be fixed by proclamation in the *Provincial Gazette* a fund to be called the Transvaal Nurses' Pension Fund and such fund shall consist of—

(a) contributions made by nurses in accordance with the provisions of this Ordinance;

(b) sums and interest paid out of revenue in accordance with the provisions of this Ordinance;

(c) any sums payable by a board in accordance with the provisions of this Ordinance or of the Public Hospitals Ordinance, No. 18 of 1928;

(d) any other sums which under this Ordinance are to be credited to the fund.

(2) All amounts contributed or paid to the fund shall be lodged with the Administration to the credit of the fund in a separate deposit account, and any balances not required for current purposes shall be devoted to the purchase of stock of the Union of South Africa, the Province of Transvaal, or any local authority in the Union of South Africa, subject to the approval of the Public Debt Commissioners and the Administration;

Provided that if the total investments produce during any financial year an average rate of interest lower than four per cent. per annum a sum equal to the deficiency shall, as soon as the deficiency is ascertained, be paid from Revenue to the fund.

\* As amended by section *two* of Ordinance No. 9 of 1929 and section *two* of Ordinance No. 3 of 1934.

**Contributions by Nurses Appointed on or after the Fixed Date.**

\*3. (1) Every nurse appointed on or after the fixed date save as provided in sub-section (2) and (3) of this section, shall, as from the date of her admittance to the regular nursing staff, make contribution at the rate of five per cent. of her pensionable emoluments to the fund; provided that with effect from the first day of July, 1941, such contribution shall be in accordance with the scale appearing in section *four ter* of this Ordinance, provided further that every nurse appointed on or after the first day of May, 1933, shall not be admitted to the regular nursing staff before she has produced to the board a medical certificate satisfactory to the Administration. Such certificate shall be in the form prescribed by the Administrator by regulation.

(2) Any nurse appointed on or after the fixed date, whose age is at the date of her admittance to the regular nursing staff, 35 years or over, may within three months after the date of her appointment, elect to make contributions to the fund, but it shall not be obligatory upon her to do so.

Provided that all arrear contributions in respect of any period within which under this sub-section such a nurse has been making her election shall be paid by the nurse at the end of the month in which she notifies her intention of contributing, notwithstanding anything to the contrary in this Ordinance contained.

(3) No contribution shall be made to the fund by a nurse

(a) except in respect of service on the regular nursing staff; and

(b) whose age at the date of her admittance to the regular nursing staff is 40 years or over;

Provided that the Administration may allow a female officer who has not been admitted to the regular nursing staff to contribute to the fund in exceptional circumstances on the same terms and conditions as are by this Ordinance prescribed for nurses on the regular nursing staff;

Provided further that the board may allow a nurse whose service has been continuous to contribute in respect of service prior to her admission to the regular nursing staff and every nurse so permitted shall intimate in writing to the board within a reasonable period to be specified by the Administration what period (if any) of her past continuous employment she desires to have reckoned for purposes of pension. She shall then become liable in respect of that period or portion thereof for the payment of an amount equal to the amount of her own contributions at the prescribed rate.

**Nurses Employed at Fixed Date Eligible to Contribute to the Fund and Contributions by such Officers.**

4. (1) Every nurse employed on the regular nursing staff at the fixed date shall be eligible to contribute to the fund in respect of the whole or part of her past continuous service, subsequent to the 31st December, 1913.

Provided that her age at the date from which she elects to contribute to the fund does not exceed 50 years if her retiring age is 60 or 40 years if the retiring age of such nurse is less than 60, and provided further that notwithstanding anything to the contrary contained in this Ordinance, the Administration may allow a nurse with not less than ten years' service at the fixed date, on such terms as it may deem equitable after consultation with the actuary, to contribute to the fund, notwithstanding that the age of such nurse was at the date from which she elects to contribute to the fund greater than the age specified in the preceding proviso.

(2) Any nurse employed at the fixed date whose age as at the date from which she elects to contribute to the fund is under 40 years, shall be eligible to make contributions to the fund. The rate at which such nurse shall contribute to the fund shall depend upon the age for the retirement of such nurse as is prescribed in section *eight* of this Ordinance, and shall be in accordance with one of the following scales:—

	<i>Prescribed Age of Retirement.</i>	<i>Per cent. of Pensionable Emoluments.</i>
Under 35 years ... ..	50	5
Under 35 years ... ..	55	4½
35 years but not exceeding 36 years ...	50	5½
35 years but not exceeding 36 years ...	55	4¾
36 years but not exceeding 37 years ...	50	5¾
36 years but not exceeding 37 years ...	55	5
37 years but not exceeding 38 years ...	50	6
37 years but not exceeding 38 years ...	55	5½
38 years but not exceeding 39 years ...	50	6½
38 years but not exceeding 39 years ...	55	5½
39 years but not exceeding 40 years ...	50	6¾
39 years but not exceeding 40 years ...	55	5¾
Under 40 years ... ..	60	4

\* As amended by section *one* of Ordinance No. 6 of 1927, sections *two* and *three* of Ordinance No. 9 of 1929, section *one* of Ordinance No. 3 of 1933, and section *one* of Ordinance No. 9 of 1941.

(3) Any nurse who elects to retire at 60 and whose age as at the date from which she elects to contribute to the fund is 40 years or over shall be eligible to make contributions to the fund in accordance with the undermentioned scale, or, in the case of a nurse whose contribution is authorized under the second proviso of sub-section (1) hereof at the rate approved by the Administration.

<i>Per cent. of Pensionable Emoluments.</i>	
40 years but not exceeding 41 years ... ..	4 $\frac{1}{4}$
41 years but not exceeding 42 years ... ..	4 $\frac{1}{2}$
42 years but not exceeding 43 years ... ..	4 $\frac{3}{4}$
43 years but not exceeding 44 years ... ..	4 $\frac{3}{4}$
44 years but not exceeding 45 years ... ..	5
45 years but not exceeding 46 years ... ..	5 $\frac{1}{4}$
46 years but not exceeding 47 years ... ..	5 $\frac{1}{2}$
47 years but not exceeding 48 years ... ..	5 $\frac{3}{4}$
48 years but not exceeding 49 years ... ..	5 $\frac{3}{4}$
49 years but not exceeding 50 years ... ..	6

\* (4) (i) Every nurse who elects to contribute to the fund under this section shall intimate in writing to the board within a reasonable period to be specified by the Administration what period (if any) of her past continuous employment subsequent to 31st December, 1913, she desires to have reckoned for purposes of pension. The board shall then decide whether or not that period or any portion thereof is entitled to be counted as continuous employment for pension purposes, and if it be decided that the nurse is entitled to count such period or portion thereof, the nurse shall pay to the fund an amount equal to her own contributions at the prescribed rate from the date approved by the board up to the date in respect of which the first monthly deduction is made.

(ii) The board shall contribute to the fund interest compounded annually up to the fixed date at the rate of five per cent. on the amounts mentioned in the preceding paragraph (i); together with an amount equal to the contributions of the board at the rate prescribed for the board with interest compounded annually at the rate of five per cent. from the date approved by the board up to the date in respect of which the first monthly deduction is made.

#### Contributions by Persons Contributing to the Fund on the 1st July, 1941.

† (4) *bis* Any person who contributes to the fund on the first day of July, 1941, shall notwithstanding anything to the contrary in this Ordinance contained, contribute to the fund in accordance with the following scale as from the first day of July, 1941:—

	<i>Age last birthday at commencement of pensionable service.</i>	<i>Per cent. of pensionable emoluments.</i>
Prescribed age of retirement 55	Under 35	5
	35	5 $\frac{1}{4}$
	36	5 $\frac{1}{2}$
	37	5 $\frac{3}{4}$
	38	6
	39	6 $\frac{1}{4}$
Prescribed age of retirement 60	Under 40	3 $\frac{1}{2}$
	40	3 $\frac{7}{10}$
	41	3 $\frac{9}{10}$
	42	4 $\frac{1}{10}$
	43	4 $\frac{3}{10}$
	44	4 $\frac{1}{2}$
	45	4 $\frac{7}{10}$
	46	4 $\frac{9}{10}$
	47	5 $\frac{1}{10}$
	48	5 $\frac{3}{10}$
49	5 $\frac{1}{2}$	

\* As amended by sections four of Ordinance No. 9 of 1929, four of Ordinance No. 3 of 1934, and two of Ordinance No. 9 of 1941.

† Added by section three of Ordinance No. 9 of 1941.

**Contributions by Nurses and Female Officers who Commence to Contribute to the Fund subsequent to the 1st July, 1941.**

\**(4)ter.* Every nurse or female officer who commences to contribute to the fund after the first day of July, 1941, shall contribute in accordance with the following scale as from the date of commencement of her pensionable service irrespective of whether her pensionable service commences before, on or after the first day of July, 1941:—

	<i>Age last birthday at commencement of pensionable service.</i>	<i>Per cent. of pensionable emoluments.</i>
Prescribed age of retirement 55	Under 35	5
	35	5½
	36	5¾
	37	6
	38	6¼
	39	6½

**Method of Contributions by Nurses.**

†5. (1) Every contribution of a nurse to the fund shall be made by monthly deductions from her pensionable emoluments, and in the case of contributions from nurses made in respect of any period prior to that in respect of which the first monthly deduction is made, the first complete instalment shall be deemed to have commenced as from the day next before such date and each further complete instalment to have been paid on the last day of each month immediately preceding to the last such instalment, and continue in regular order until the last instalment has been paid.

(2) Every nurse shall pay into the fund either by a single payment or by instalments approved by the Administration to be completed before the attainment of the retiring age such arrears shall as may be due by her. Such arrears shall as from the fixed date or from the date on which they fall due, whichever is the later, bear interest at the rate of four and one-half per cent. per annum compounded annually and such interest shall continue to be payable on the balance of arrears outstanding until such time as the whole of the arrears shall have been liquidated.

Provided that, if any such nurse retires upon an annuity before the total instalments have been paid the annuity shall be calculated upon the whole period of her continuous employment in respect of which she has elected to contribute to the fund and the instalments outstanding shall be deducted from the annuity payments, and if death occurs before these are completed, the balance outstanding shall be deducted from any payments from the fund to which her representatives are entitled.

(3) A nurse shall continue to contribute to the fund while on leave with full pay or with pay less than full pay and her contributions shall be payable on the full pensionable emoluments which would have been drawn if the nurse had not been on leave.

A nurse may on application be permitted by the board to contribute in respect of any period of authorized leave of absence without pay but such application must be made and the amount due in respect thereof must be actually paid by the nurse within one month of her return to duty; provided that the nurse may on making written application be permitted to refund the amount in six or less monthly instalments deducted from the pensionable emoluments payable to her. Failing such application and such payment by the nurse no contributions shall be collected or be payable in respect of any period of leave without pay and no such period shall be reckoned in calculating the period of her pensionable employment.

(4) Deleted by section *five* of Ordinance No. 9 of 1929.

**Contributions by Boards and Contributions from the Provincial Revenue Fund.**

6. (1) Every board shall pay to the fund—

(a) an amount equal to the aggregate of the current contributions which have been paid to the fund during or at the end of each month by nurses and female officers in the employ of the board;

(b) (i) an amount equal to the aggregate of the contributions in respect of past pensionable service for which nurses and female officers in the employ of the board may have become liable;

(ii) interest at the rate of four and one-half per cent. per annum on the amount of the contributions referred to in sub-paragraph (i) of this paragraph compounded annually and calculated according to the dates on which

\* Added by section *four* of Ordinance No. 9 of 1941.

† As amended by section *five* of Ordinance No. 9 of 1929 and section *six* of Ordinance No. 3 of 1934.

‡ As substituted by section *five* of Ordinance No. 9 of 1941.

the said contributions would have become payable had the nurses and female officers been contributors as from the commencement of the periods of their past pensionable service.

(2) Interest at the rate of four per cent. per annum on the daily average uninvested balance of the fund shall be paid to the fund from revenue.

(3) The amounts referred to in paragraph (a) of sub-section (1) and sub-section (2) of this section shall be paid to the fund monthly. The amounts referred to in paragraph (b) of sub-section (1) of this section shall be paid to the fund in a lump sum whenever ascertained by the board.

*The following provisions were added by sections twenty-four and twenty-five of Ordinance No. 9 of 1929.*

**Provision with regard to Probationers.**

24. (1) A probationer who was contributing to the fund on the 1st day of January, 1929, shall continue so to contribute at the rate applicable to her when she commenced to contribute and the board shall pay a corresponding contribution to the fund at the rate prescribed for the board in respect of nurses contributing to the fund.

(2) Such probationer shall on and after the 1st day of January, 1929, continue to be entitled to such benefits and rights and be subject to such conditions as were applicable to her when she commenced to contribute.

(3) If a probationer ceases to contribute to the fund in such circumstances that prior to the 1st day of January, 1929, a refund of contributions would have been made to the Administration in terms *two* of the Transvaal Hospitals Nurses' Pensions Amendment Ordinance No. 6 of 1927 the contributions which have been made by the board shall be refunded to the board instead of to the Administration.

**Deductions from Emoluments to be Paid to Administration.**

25. Every deduction made from a nurse's or probationer's emoluments in respect of contributions to the fund and every payment made by a nurse in respect of sums due to the fund under the provisions of this Ordinance shall be paid over by a board to the Administration so as to be received by the Administration not later than the last day of the month in which such deductions or payments are made.

**Method of Calculation of Annuity.**

\*7. (1) Subject to the provisions of this Ordinance any annuity payable out of the fund shall be based on the average pensionable emoluments of the retiring nurse for the last seven years of her period of contributions to the fund and shall be calculated at the rate of one-sixtieth of those average pensionable emoluments for each year of contribution;

Provided that—

(a) no annuity shall be paid out of the fund to any nurse until contributions have been made by her in respect of a period of ten years or more;

(b) the nurse is in other respects entitled to an annuity under this Ordinance;

(c) the total annuity paid to any nurse who is entitled to an annuity under any provision of this Ordinance shall not be at a lesser rate than sixty pounds per annum.

For the purposes of this section the period of contributions shall be calculated by the year and month and fractions of a month shall be disregarded.

†The provisions of the preceding sub-section shall only apply to a nurse who is retired on an annuity after the 31st day of March, 1934.

(2) The Administration shall pay to any nurse who elects to contribute to the fund in terms of section four hereof on her retirement in addition to any annuity payable out of the fund an annuity amounting to one-sixtieth of the nurse's total pensionable emoluments on the regular nursing staff prior to the 1st January, 1914, and such annuity shall be payable out of revenue

Provided that any such annuity in respect of a nurse who commenced to contribute to the fund on or after the 1st day of January, 1929, shall be payable by the board.

(3) No annuity shall be payable under sub-section (2) of this section in respect of any nurse who has not elected to reckon under section *four* of this Ordinance the whole period of her service between 31st December, 1913, and the fixed date.

**Retirement at or after the Prescribed Ages upon Annuity.**

8. (1) (a) A nurse whose admission to the regular nursing staff takes effect from or subsequent to the fixed date shall have reached the prescribed age for retirement when she has attained the age of 55.

\* As amended by sub-section (1) of section *seven* of Ordinance No. 3 of 1934.

† As amended by section *seven* of Ordinance No. 9 of 1929.

\**(b)* A nurse employed on the regular nursing staff at the fixed date shall have reached the prescribed age for retirement when she has attained the age of 55 provided that—

(i) a nurse who had attained the age of 45 on the fixed date or had attained the age of 35 on the date of her admission to the regular nursing staff shall be permitted to choose as her prescribed age of retirement the date on which she attains the age of 55 or the date on which she attains the age of 60;

(ii) a nurse who had attained the age of 35 on the fixed date or had attained the age of 30 on the date of her admission to the regular nursing staff shall be permitted to choose as her prescribed age for retirement the date on which she attains the age of 55; provided further that if the nurse concerned does not signify in writing to the board her decision within six months from the fixed date the age prescribed for retirement shall in the case of such nurse be 50. It shall be the duty of the board within two months from the fixed date to call upon the nurse to signify her decision.

In terms of section *two* of Ordinance No. 11 of 1933 prior contributions are not affected, the section reading:—

**Prior Contributions not Affected.**

†2. The alteration in the scale of contributions payable by nurses and the board due to the raising of the prescribed age of retirement for nurses from 50 to 55 as effected by this Ordinance shall in no way affect contributions paid by nurses or the board before this Ordinance came into operation. No claim shall lie for any refund in respect of such contributions.

*Section eight of the Principal Ordinance continues:—*

(2) A nurse who has attained the prescribed age for retirement shall have the right to retire and shall be required so to retire unless it is desirable in the public interest to retain such nurse in her office or post over that age, and in that event such a nurse may from time to time with the approval of the Administration be retained for further periods (not exceeding one year at a time) up to the age of 65 years after which age no nurse shall be retained on the regular nursing staff; provided that if any nurse is retained in a temporary capacity in the employment of a board after reaching the age of 65 any benefits which have accrued under this Ordinance or any amendment thereof to such nurse shall be withheld until she finally leaves the service of the board.

(3) Any nurse who has attained the age of 45 years may be required by the board to retire on pension, but all payments of annuity made before that nurse is entitled to retire under sub-section (1) of this section shall be paid by the board and not out of the fund.

(4) Any nurse who has been compelled to retire in terms of sub-section (3) of this section and who may elect to continue to contribute to the fund shall be permitted to continue so to contribute and the board shall continue to contribute in respect of such nurse at the prescribed rate based on the pensionable emoluments at the date of her compulsory retirement until such nurse attains the prescribed age of retirement. Such nurse shall on reaching the prescribed age receive the same annuity as she would have received had she not been compelled to retire before attaining the prescribed age.

**Retirement upon an Annuity before the Prescribed Age on Grounds of Ill-health.**

‡9. (1) A nurse who, having contributed to the fund in respect of a period of ten years or more, is found by the Administration on grounds of ill-health caused without her own default and certified by medical certificate to be unfit to discharge efficiently the duties of her office or post, shall be temporarily retired and shall be entitled to receive in respect of her completed period of contributions an annuity calculated as is provided in section *seven*.

(2) If a nurse to whom an annuity has, under sub-section (1) of this section, been granted, be medically certified, within two years of her temporary retirement, as fit for duty and be still under the age of superannuation, she may be required to resume duty in her former or in any other nursing post. Should she refuse to resume duty without reasonable cause, the annuity provided under sub-section (1) shall cease:

Provided that—

(a) the pensionable emoluments attaching to the office or post shall not be less than the pensionable emoluments drawn by her immediately prior to her temporary retirement;

(b) the nursing post in which she is required to resume duty is not of a lower grade than that from which she temporarily retired;

(c) any pension which she was drawing at the time of resuming duty shall determine;

\* The provisos to sub-section (1) *(b)* were deleted by section *one* *(b)* of Ordinance No. 11 of 1933, but such deletion does not affect the choice made by any nurse in terms of the provisos.

† As amended by section *eight* of Ordinance No. 9 of 1929.

‡ As amended by section *nine* of Ordinance No. 9 of 1929.



(d) on her final retirement she shall be entitled for the purposes of pension to add together the periods of employment prior to and subsequent to her temporary retirement if she contributed to the fund during that subsequent period

If on the expiry of two years from the date of her temporary retirement a nurse has not been required to resume duty or is still medically unfit for duty, she shall be deemed to have finally retired from the service of the board.

#### **Retirement upon an Annuity owing to Reorganization.**

\*10. A nurse who has contributed to the fund in respect of a period of ten years or more, shall, if discharged owing to abolition of her post, be entitled to receive in respect of her completed period of contribution and annuity calculated as is provided in section *seven*. All payments of such annuity made before such a nurse attains the retiring age prescribed under sub-section (1) of section *eight* shall be paid by the board, and out of the fund, but all such payments made after she attains that age shall be out of the fund.

Provided that any such payments in respect of annuities in force on the 1st day of January, 1929, shall continue to be paid out of revenue until she attains such retiring age.

#### **BENEFITS OTHER THAN ANNUITIES.**

##### **Return of Contributions.**

†11. A nurse shall be entitled, on application, to a return of the whole of her own contributions to the fund at the prescribed rate, together with simple interest calculated at the rate of three per cent. per annum, if she has completed three years' service and at the rate of four per cent. per annum if she has completed five years' service, and at the rate of five per cent. per annum if she has completed ten years' service if she retires from any cause whatsoever, unless the retirement be under the provisions of sections *nine*, *twelve* or *fifteen* and she shall have no further claim upon the fund.

Provided that in the case of a nurse dismissed for fraud or dishonesty the Administration may deduct from any sums payable to such nurse under this section the amount of any loss which a board may have sustained by reason of such fraud or dishonesty. Any such deduction shall be paid to the board.

Provided further that no interest shall be paid in case of dismissal from the regular nursing staff.

##### **Return of twice the Amount of Contributions.**

‡12. A nurse shall be entitled on application to a return of a sum equal to twice the amount of her own contributions at the prescribed rate to the fund, without interest if

(a) she retired from the regular nursing staff for reasons described in sections *nine* and *ten*, but before she has completed contributions to the fund in respect of a period of ten years; or

(b) being a nurse with not less than five years' continuous employment she is discharged on her marriage or voluntarily retires in contemplation of her marriage and marries within three months after her retirement and on payment of the sum aforesaid the said nurse shall have no further claim upon the fund.

*Section two of Ordinance No. 6 of 1927 provides:—*

##### **Refund of Contributions.**

2. Every probationer who at the date of the coming into force of this Ordinance was contributing to the fund and who so desires shall be refunded the amount of her own contributions to the fund with interest at the rate of three per cent. per annum and the contributions paid by the Administration in respect of such probationer shall be refunded to revenue with interest at the rate of three per cent. per annum.

#### **ANNUITIES, GRATUITIES, OR RETURN OF CONTRIBUTIONS TO REPRESENTATIVES OF DECEASED NURSES.**

##### **Gratuity in event of Death before or soon after Retirement.**

13. (1) Subject to the provisions of sub-section (3) of this section, if a nurse die before her retirement, there shall be paid to or for the benefit of the persons mentioned in sub-section (3) a gratuity equal to twice the amount of her own contributions at the prescribed rate to the fund, without interest.

(2) Subject to the provisions of sub-section (3) of this section, if any nurse who has retired from the regular nursing staff on an annuity under this Ordinance, die within five years after the date of her retirement, there shall be paid to or for the benefit of the persons mentioned in sub-section (3) either the annuity which such nurse, if she had not died, would have drawn during the

\* As amended by section *ten* of Ordinance No. 9 of 1929.

† As amended by section *eleven* of Ordinance No. 9 of 1929.

‡ As amended by section *twelve* of Ordinance No. 9 of 1929.

unexpired portion of the period of five years aforesaid, or a gratuity equal to the\* sum of the annuity payments during such unexpired portion of the period of five years aforesaid.

(3) The annuity or gratuity under sub-section (1) or (2) shall only be paid when the deceased nurse leaves—

(a) a widower or child or children or step-child or step children; or

(b) a father, mother, brother or sister dependent upon her for support and maintenance.  
and shall not be paid to or for the benefit of any other collateral or more distant relative.

In every such case the payment shall be made to or for the benefit of one or more of the persons specified in paragraphs (a) and (b) and the selection of the person or persons shall be in the discretion of the board when payment is made in terms of sub-section (1) hereof and the Administration when payment is made in terms of sub-section (2) hereof.

The payments shall be made in the following order of preference, unless that order of preference has been varied by the deceased by will or otherwise, namely, to or for the benefit of—

(i) the widower; or

(ii) the children and step-children; or

(iii) the father and mother or the survivor of them; or

(iv) the brothers or sisters.

(4) When the said annuity or gratuity has been paid, the Administration, the board and the fund shall be exempt from any further claim in respect of any amount so paid.

(5) Notwithstanding anything to the contrary in this section contained if a nurse die before her retirement from the regular nursing staff or after she has retired from the regular nursing staff on an annuity and shall not leave any such dependents as described in sub-section (3) (a) and (b) of this section there shall be paid to any person or persons nominated by her in a will an amount equal to her own contributions at the prescribed rate, together with simple interest calculated at the rate of three per cent. per annum if she had at the date of her death completed three years' service and at the rate of four per cent. if she had completed five years' service and at the rate of five per cent. if she had completed ten years' service, less the amount, if any, which she may have received in respect of annuity.

#### **Pensions Payable from Revenue.**

†14. The pensions or other benefits payable under the next two succeeding sections shall be payable by the board; provided that any annuity in force as at the 1st day of January, 1929, shall continue to be paid out of revenue.

#### **Annuities to Nurses Retiring in consequence of Injury, etc., Received in Discharge of Duty.**

‡15. If a nurse who makes contributions to the fund would at her retirement from the regular nursing staff at the age of superannation have been entitled to an annuity, but is compelled to retire therefrom before attaining that age by reason of severe bodily injury or permanent ill-health occasioned in the discharge of and especially attributable to her official duties, the board shall grant her a pension at the following rate, namely:

(a) if it appear to the board that her capacity to contribute to the support of herself and her dependents is totally destroyed, an annuity of not less than half her average annual pensionable emoluments during the whole period of her contributions;

(b) if it appear to the board that her capacity to contribute to the support of herself and her dependents is materially impaired, an annuity at the rate of at least one-sixtieth of her average annual pensionable emoluments during the whole period of her contributions for each year of employment, and calculated upon those emoluments;

Provided that the contributions made to the fund both by the said nurse herself and in respect of the said nurse from revenue or by a board together with interest at four per cent. per annum shall be repaid to the board out of the fund.

#### **Annuities to Relatives of Nurses Dying in consequence of Injuries, etc., Received in Discharge of Duty.**

§16. If a nurse who makes contributions to the fund loses her life either from an injury sustained or from an illness contracted in the circumstances described in the last preceding section, the board shall grant to or for the benefit of such relatives of the deceased nurse as are described in sub-section

\* As amended by section *thirteen* of Ordinance No. 9 of 1929.

† As amended by section *fourteen* of Ordinance No. 9 of 1929.

‡ As amended by section *fifteen* of Ordinance No. 9 of 1929.

§ As amended by section *sixteen* of Ordinance No. 9 of 1929.

(3) of section *thirteen*, such annuity or gratuity as the necessities of the case may require, but such annuity shall in no case exceed one-half of her average pensionable emoluments during the whole period of her contributions;

Provided that the contributions made to the fund both by the said nurse herself and in respect of the said nurse from revenue or by a board together with interest at four per cent. per annum shall be repaid to the board out of the fund.

Provided further that the provisions of section *thirteen* shall *mutatis mutandis* apply in respect of the allocation of the annuity or gratuity;

Provided further that any such annuity shall cease—

- (a) in the case of a widower on his remarriage;
- (b) in the case of a minor who is a male, on his attaining the age of eighteen years; and
- (c) in the case of a minor who is a female, on her attaining the age of twenty-one years, or marrying under that age.

#### FINANCIAL.

##### Accounts.

17. (1) The Administration shall cause full and true accounts of the fund to be kept showing separately—

(a) all sums of money received or due and disbursed or repayable in respect of contributing nurses and particulars of the matters and things for which those sums of money have been received or disbursed;

(b) the dates of payment of the first and all subsequent contributions, together with all chronological and other particulars necessary to admit of proper accounts of the fund being kept in accordance with this Ordinance and the regulations, and to admit of an actuarial valuation of the fund being made at any time;

\* (c) all sums of money due or to from revenue or boards in connection with the fund;

(d) all other matters of account provided for or contemplated in this Ordinance and the regulations.

(2) The Administration shall cause the books and accounts of the fund to be balanced up to the thirty-first day of March in every year, and balance-sheet to be prepared, showing the assets and liabilities of the fund at the date when the balance-sheet is framed.

##### Quinquennial Valuation of Fund.

† 18. (1) The fund shall be valued as at the thirty-first day of March, 1924, and every five years thereafter by an actuary. The actuary shall report direct to the Administration who shall send a copy of such report to each board and who shall submit such report to the Provincial Council, and shall in his report state the data and processes used in his investigation and valuation. He shall separately value the assets and liabilities of the fund, and shall declare any surplus or deficiency which appears thereon, shall state his opinion why that surplus or deficiency (as the case may be) has arisen and as to the steps which should be taken to deal with it.

(2) If the actuary's valuation discloses a substantial surplus beyond the requirements likely to arise under this Ordinance or any amendment thereof, the benefits shall be increased or the contributions shall be reduced in such manner as the Provincial Council may direct. If the actuary's valuation discloses a substantial deficiency, the deficiency shall be met, if necessary, in such manner as the Provincial Council may direct;

Provided that no person to whom a pension has been granted shall, in the case of an annuity, have it reduced, or, in the case of a gratuity, be called upon to repay any portion thereof;

Provided further that the contributions by a board shall never be at a lower rate than is for the time being prescribed as payable by nurses.

##### Fund to be Administered by Administration.

19. The business of the fund shall be conducted by the Administration, and the cost of administering the fund and of any actuarial investigations and matters incidental thereto shall be borne out of revenue.

#### GENERAL.

##### Period of Employment for Pension Purposes.

20. (1) The period of employment in respect of which a pension shall under this Ordinance be reckoned except as specially provided for in section *nine* shall be continuous.

(2) A continuous period of employment shall include the time spent—

- (a) on actual duty;
- (b) on authorized leave of absence;

\* As amended by section *seventeen* of Ordinance No. 9 of 1929.

† As amended by section *eighteen* of Ordinance No. 9 of 1929.

(c) under suspension if followed by reinstatement in the same, or appointment to another nursing post.

(3) A continuous period of employment shall not be regarded as interrupted by authorized leave of absence without pay, but the time spent on such leave shall not be reckoned in calculating a pension unless the nurse has contributed for such period to the fund.

**Nurses Re-employed. Annuity to Cease or be Reduced during Period of Re-employment.**

\*21. If any nurse be granted an annuity under this Ordinance and be thereafter employed with her own consent in the public service or under the Railway Administration or any Provincial Administration, or under the Administration of the Mandated Territory or under any board then while that subsequent employment continues the annuity shall cease if the emoluments of her office in such subsequent employment be equal to or greater than the emoluments of her nursing post previous to the grant of the annuity. If the emoluments of her office in such subsequent employment be less than the emoluments of her nursing post previous to the grant of the annuity, so much of the annuity as may not exceed the difference between those emoluments shall be payable. On the termination of the said subsequent employment, the whole annuity shall again become payable.

**Pensions, etc., not Assignable or Executable.**

†22. No pension, or right to a pension, shall be capable of being assigned or transferred or otherwise ceded, or of being pledged or hypothecated, nor shall the same or any contributions made by a nurse be liable to be attached or subjected to any form of execution under a judgment or order of a court of law, and in the event of the beneficiary attempting to assign, transfer or otherwise cede or to pledge or hypothecate a pension or right, payment of the same may be withheld, suspended or entirely discontinued, if the Administration so determine; provided that the Administration may before payment of any annuity or gratuity is made to a nurse, deduct any sums which may be due to the board by such nurse and shall pay any such sums to the board.

**How Pensions Affected by Insolvency.**

23. (1) If any retired nurse in receipt of an annuity be declared insolvent, the annuity shall forthwith determine; provided that in any such case the annuity shall be paid to or for the benefit of all or any of the following persons, namely: the insolvent or her husband or any minor children, or failing minor children, to any children or other relatives or persons dependent on her for maintenance. If the payment be to the insolvent it shall be for her own personal use and may not in anyway be attached or appropriated by the trustee in insolvency or by her creditors, anything to the contrary notwithstanding in any law relating to insolvency.

(2) Whenever an annuity has determined under this section, it shall be revived on rehabilitation of the insolvent, and she shall receive an annuity at the same rate and under the same conditions as before insolvency.

**Payment of Annuity during Imprisonment.**

24. If any retired nurse in receipt of an annuity be convicted by any Court in His Majesty's Dominions of any crime or offence and be sentenced to imprisonment without the option of a fine for any period exceeding one month, the annuity shall during such period of imprisonment be payable to the persons mentioned in sub-section (3) of section *thirteen*, if they exist.

**Power to Reduce or Suspend Pensions in certain Cases.**

25. If any retired nurse be found to have made wilfully a false statement for the purpose of obtaining a pension knowing the statement to be false then the Administration may order that the right to any pension to which she has become entitled, or any annuity of which she is in receipt, shall be suspended, reduced or forfeited.

Provided that she shall not receive, owing to the exercise of the powers of this section, less, in the case of an annuity, than the annual value calculated actuarially of any sum contributed by her or less, in the case of a gratuity, than the actual sum contributed by her in accordance with this Ordinance.

**Commutation of Annuities.**

‡26. The Administration may at the request of the recipient and subject to the production of satisfactory medical certificates commute such portion of any annuity as does not exceed one-third thereof by a single cash payment calculated actuarially according to the period for which the recipient may be expected to draw the annuity.

\* As amended by section *nineteen* of Ordinance No. 9 of 1929.

† As amended by section *twenty* of Ordinance No. 9 of 1929.

‡ As amended by section *eight* of Ordinance No. 3 of 1934.

In the event of the retirement taking place before the recipient has attained the prescribed age for retirement, no greater sums shall be paid by the board than would in the ordinary course be so paid if the annuity had not been commuted and the recipient had lived to attain the age from which the annuity would be paid out of the fund.

**When Sections fifteen or Sixteen do not Apply.**

27. If under the provisions of Act No. 25 of 1914 or any amendment thereof a nurse or her dependents as therein defined obtains compensation as therein defined or if at common law any nurse or her dependents obtain damages in respect of any such circumstances as are described in section *fifteen* or *sixteen* of this Ordinance, then the provisions of the said section *fifteen* or *sixteen* shall not apply.

**Regulations.**

28. The Administrator may make regulations not inconsistent with the provisions of this Ordinance for the efficient carrying out of the objects of this Ordinance.

**Providing for Refund of Moneys Paid out in the case of Discharged Nurses Reinstated in Service.**

\*29. Any nurse who after ten years' service is compelled to retire and is subsequently reinstated on the regular nursing staff may on the recommendation of the board and subject to the approval of the Administration, during the period of her absence be deemed to have been absent on leave without pay and may resume her contributions to the fund, provided that she refunds all moneys received by her on the occasion of her retirement, together with such interest as the Administration may decide but shall not be permitted to contribute to the fund in respect of the period of her absence.

**Providing for Recognition of Service of Nurses Transferred from Service of one Province to Another.**

30.—*Repealed by section nine of Ordinance No. 3 of 1934.*

*Section ten of the last mentioned Ordinance now provides as follows:—*

**Nurses Transferred from certain Services.**

10. (1) Any nurse who has been serving in the Public Service of the Union or under any Provincial Administration or under the Administration of the Mandated Territory and who is transferred from such service to a post on the regular nursing staff and whose age on transfer is under thirty-five years shall contribute to the fund at the scale prescribed in section *three*.

(2) Any nurse transferred as aforesaid whose age on transfer is thirty-five years or over may, within three months of the date of her transfer, elect to contribute to the fund but it shall not be obligatory upon her to do so.

(3) Any nurse transferred as aforesaid whose age on transfer is forty years or over may within three months after the date of her transfer elect to contribute to the fund notwithstanding anything contained in paragraph (b) of sub-section (3) of section *three*; provided that such nurse is allowed to reckon service as provided for under the next succeeding sub-section, and the period of service so allowed to count together with the period of service from the date of transfer to the prescribed date of retirement amount to a period of not less than ten years; provided further that any nurse who elects to contribute under this or the preceding sub-section shall make contributions in accordance with the scale prescribed in section *three*, and pay at the end of the month in which she notifies her intention to contribute all contributions due in respect of any period within which under either sub-section she has been making her election, notwithstanding anything to the contrary in this Ordinance or in the principal Ordinance contained.

(4) Any nurse who is transferred as aforesaid shall be allowed to reckon her service in the Public Service of the Union or under any Provincial Administration or under the Administration of the Mandated Territory, or a portion of it, as continuous with her future service; provided that the nurse's own contributions at the prescribed rate and the contributions which would have been made from revenue or by a board in respect of such service shall be paid by or on behalf of the nurse together with interest at the rate of five per cent. per annum compounded annually up to the date of payment.

(5) If a nurse is transferred to the Public Service of the Union or the service of any Provincial Administration or the Administration of the Mandated Territory the Administration may pay to the Treasury, or to

\* As amended by section *twenty-one* of Ordinance No. 9 of 1929.

the Administration of the other Province or Mandated Territory as the case may be, on behalf of such nurse an amount not greater than the total contributions paid by the nurse and by the board or from revenue on her behalf together with interest at five per cent. per annum compounded annually.

**Benefits to Subordinate Officers Attached to the Regular Nursing Staff.**

\*31. (1) An officer who has served with diligence and fidelity for not less than ten years shall be entitled to retire with a gratuity of one month's salary at the rate he was receiving at the date of his retirement for each two years of employment for the first ten years and a gratuity of one month's salary for each additional year of service.

(2) If an officer is disabled for further employment by an injury received without his own default in the execution of his duty and as a direct result of performing such duty, or if he is compelled to retire by reason of permanent ill-health occasioned without his own default in the discharge of and specifically attributable to his official duties the Administrator may grant him such gratuity as he may think adequate.

Payments under this section shall be made by the board; provided that there shall be refunded to the board from revenue an amount equal to a portion of the gratuity paid which is proportionate to the service prior to the 1st day of January, 1929, as compared with the total service.

**Saving as to Gratuity already Paid.**

32. Notwithstanding anything in this Ordinance contained no period of service for which a gratuity has already been received by a nurse or officer shall be reckoned as service for pension or gratuity purposes.

**Short Title and Date of Operation.**

33. This Ordinance may be cited for all purposes as the Transvaal Hospital Nurses' Pensions Ordinance, 1919, and shall commence and come into operation on a date fixed by proclamation in the *Provincial Gazette*.

**No. 14 of 1919.—Local Government Further Amendment.—Repealed by Ordinance No. 11 of 1926.**

**No. 15 of 1919.—Transvaal Teachers' Pensions Amendment.**

*Section 1.—Amends section 1 of Ordinance No. 5 of 1916.*

*Section 2.—Adds a new provision, namely that the Pension Fund is to be controlled by the Accounting Officer. Text incorporated after section 27, in Ordinance No. 5 of 1916.*

*Section 3.—Short Title.*

1920.

**No. 1 of 1920.—Public Entertainments.—Superseded by Act No. 28 of 1941.**

**No. 2 of 1920.—Supplementary Appropriation (1919-1920).**

**No. 3 of 1920.—Appropriation (Part 1920-1921).**

**No. 4 of 1920.—Local Government (Housing) Amendment.—Repealed by Ordinance No. 11 of 1926.**

**No. 5 of 1920.—Provincial Gold Profits Tax Amendment.—Repealed by Act No. 5 of 1921.**

**No. 6 of 1920.—Second Appropriation (Part 1920-1921).**

**No. 7 of 1920.—Increment Value Duty (Repeal).**

*Section 1.—Repeals Ordinance No. 5 of 1919.*

*Section 2.—Short Title.*

**No. 8 of 1920.—Dwelling House and Bachelor Tax (Repeal).**

*Section 1.—Repeals Ordinance No. 16 of 1918.*

*Section 2.—Short Title.*

**No. 9 of 1920.—Appropriation (1920-1921).**

**No. 10 of 1920.—Local Government Amendment.—Repealed by Ordinance No. 11 of 1926.**

1921.

**No. 1 of 1921.—Appropriation (Part 1921-1922).**

**No. 2 of 1921.—Additional Appropriation (1920-1921).**

**No. 3 of 1921.—Unauthorized Expenditure (1918-1919).**

**No. 4 of 1921.—Horseracing and Betting Restriction Amendment.—Repealed by Ordinance No. 9 of 1927.**

**No. 5 of 1921.—Licensing of Bookmakers and Taxation Amendment.—Repealed by Ordinance No. 26 of 1925.**

**No. 6 of 1921.—Betting Taxation Amendment.—Repealed by Ordinance No. 26 of 1925.**

**No. 7 of 1921.—Poll Tax.—Repealed by Ordinance No. 10 of 1928.**

**No. 8 of 1921.—Second Appropriation (Part 1921-1922).**

**No. 9 of 1921.—Local Authorities Rating (Agricultural) Amendment.—Repealed by Ordinance No. 13 of 1928.**

\* As amended by section *twenty-three* of Ordinance No. 9 of 1929.

No. 10 of 1921.]

[Assented to 28th June, 1921.]

**AN ORDINANCE****For the Protection of Fish in the Province of Transvaal.***(Signed by the Governor-General in English.)*

BE IT ENACTED by the Provincial Council of Transvaal as follows:—

**Repeal.**

1. The Fish Preservation Ordinance No. 5 of 1906, shall be and is hereby repealed.

**Definitions.**

2. In this Ordinance—

“ Administrator ” shall mean the officer appointed under section *sixty-eight* of the South Africa Act 1909 or any amendment thereof, acting on the authority of the Executive Committee;

“ Owner ” shall include:—

- (a) the registered owner;
- (b) the lessee of any crown or private land;
- (c) the lawful occupier of any land;
- (d) any association person or body of persons who has acquired the rights of fishing in any river, stream, lake, dam, pool or other waters in the Province;

“ Police Officer ” shall mean an officer, constable or trooper of any police force established in this Province by any law;

“ Province ” shall mean the Province of Transvaal.

**Close Season.**

3. The Administrator may from time to time by proclamation in the *Provincial Gazette*—

- (a) prescribe, fix and alter for any district or portion of a district of the Province the periods of the close season within which it shall not be lawful to fish for, capture or destroy all or any particular kind of fish;
- (b) prescribe a list of fish which shall not be subject to any such periods of close season;
- (c) prohibit for a specified period—
  - (i) the taking of all or any particular fish by means of any drag, cast, stake or other net, in any river, stream, lake, dam, pool or other waters;
  - (ii) the fishing for, capture or destruction in any river, stream, lake, dam, pool or other waters of any trout or of any other fish which have been or shall be introduced into the Province;
  - (d) limit or restrict the method of capture of any particular fish in any district or area thereof.

**Regulations.**

\*4. The Administrator may from time to time make, alter and repeal regulations not inconsistent with the provisions of this Ordinance—

- (a) prohibiting the taking of all or any particular kind of fish by means of any drag, cast, stake or other net without a licence;
- (b) for determining what size fish of any species which, having been caught, may be retained; and for providing that any undersized fish shall be returned to the water immediately after capture; provided that nothing in this law, or any regulations made thereunder shall prevent the capture and disposal of any species of fish of any size hatched in any hatchery *bona fide* established and carried on for the purpose of stocking or restocking the lakes, dams, or rivers of the Province;
- (c) regulating the periods within which all fish or any particular fish may be taken under such licence by means of a drag, cast, stake or other net;
- (d) determining the construction or size of any such drag, cast, stake or other net and of its mesh and the manner and locality in which it shall be used;
- (e) determining the form of licence by whom and the manner in which licences shall be issued and the fees payable therefor and for prescribing the conditions under which such licences shall be issued;
- (f) generally for the better carrying out of the provisions of this Ordinance and in the furtherance of the objects thereof;
- (g) regulating or restricting the sale of fresh water fish;
- (h) prohibiting any person from dumping, depositing, or discharging or permitting to be dumped, deposited, or discharged into any river, stream, lake, dam, pool, or other water, of any substance or liquid which may be or become injurious to fish life;
- (i) prohibiting the release by any person of any variety of fish in any river, stream, lake, dam, pool, or other water;
- (j) appointing one or more honorary fisheries officer or/and a supervising

\* As amended by section *two* of Ordinance No. 5 of 1932.

fisheries officer for the Province or any district thereof to assist in the administration of this Ordinance. and such regulations may be put in force in every or any particular district of the Province or in any portion of a district.

#### **Destruction of Fish.**

5. Any person who shall at any time by means of dynamite or other explosive or by means of chemical, poisonous, intoxicating or other injurious substance other than by rod and line or by netting under licence under regulation provided for in paragraph (a) of section *four* wilfully kill or destroy any fish in any river, stream, lake, dam, pool or other waters in this Province shall be liable on conviction to a fine not exceeding fifty pounds and in default of payment, to imprisonment with or without hard labour for a period not exceeding six months or to both such fine and such imprisonment.

#### **Trout Fishing.**

6. Subject to the provisions of any regulations made under sub-section (b) of section *four* of this Ordinance any person who shall fish for, capture or destroy any trout in any of the rivers, streams or other waters in the Province except by means of rod and line or shall use with intent to such capture or destruction any bait or lure other than artificial fly shall be guilty of an offence.

#### **Poaching.**

\*7. Any person who by any manner, method or means whatever fishes for, takes, or destroys or attempts to take or destroy any fish in any river, stream, dam, pool, or other water on any land or forming the boundary of any land without the permission of the owner first had and obtained shall be guilty of an offence.

#### **Production of Licence may be Demanded.**

8. Any Justice of the Peace or Police Officer or person duly authorized in writing by the owner of any land mentioned in the last preceding section or by the owner of any waters finding any person fishing or attempting to fish by means of any drag, cast, stake or other net in any river, stream, or other waters shall be and is hereby empowered to demand from such person the production of his licence and if he shall fail to comply immediately with any such requirement he shall be guilty of an offence.

#### **Destruction of Property.**

9. Any person who shall unlawfully or maliciously cut through, break down or otherwise destroy any dam, reservoir, pool or sluice of any fish-pond or of any water which shall be private property or in which there shall be any private right of fishing, with intent thereby to take or destroy any of the fish in such dam, or water, or so as thereby to cause the loss or destruction of any of the fish, shall be guilty of an offence.

#### **Penalty.**

10. Any person who—

(a) shall act in contravention of any proclamation issued or shall contravene any regulation made under this Ordinance; or

(b) shall be guilty of an offence or of a contravention of any of the provisions of this Ordinance; shall be liable on conviction to a fine not exceeding fifty pounds and in default of payment, to imprisonment with or without hard labour for a period not exceeding six months.

#### **Proof of Possession of Licence.**

11. Any person charged with contravening a regulation under this Ordinance requiring him to have a licence shall be deemed to be without such licence unless he shall produce the same to the court before which he is charged or give other satisfactory proof of possessing the same.

#### **Confiscation of Tackle and Cancellation of Licence.**

12. When any person shall be convicted of taking fish by means of a drag, cast, stake or net in contravention of any regulation made under this Ordinance, the court before which such conviction shall take place may order such drag, cast, stake or net to be forfeited or may cancel any licence under such regulations.

#### **Short Title.**

13. This Ordinance may be cited for all purposes as the Fish Preservation Ordinance, 1921.

#### **No. 11 of 1921.—Appropriation (1921-1922).**

\* As substituted by section *one* of Ordinance No. 7 of 1938.



**No. 12 of 1921.—Local Government Amendment.—Repealed by Ordinance No. 11 of 1926.**

1922.

**No. 1 of 1922.—Additional Appropriation (1921-1922).**

**No. 2 of 1922.—Unauthorized Expenditure (1919-1920).**

**No. 3 of 1922.—Appropriation (Part 1922-1923).**

**No. 4 of 1922.—Unauthorized Expenditure (1920-1921).**

**No. 5 of 1922.—Betting Amendment.—Repealed by Ordinance No. 9 of 1927.**

**No. 6 of 1922.—Horseracing and Betting Restriction Amendment.—Repealed by Ordinance No. 9 of 1927.**

**No. 7 of 1922.—Registration and Control of Dogs Amendment.—Repealed by Ordinance No. 18 of 1933.**

**No. 8 of 1922.—Employers' Tax.—Repealed by Act No. 46 of 1925.**

**No. 9 of 1922.—Poll Tax Amendment.—Repealed by Ordinance No. 10 of 1928.**

**No. 10 of 1922.—Pension (Miss Rockwood).**

**No. 11 of 1922.—Second Appropriation (Part 1922-1923).**

**No. 12 of 1922.—Appropriation (1922-1923).**

**No. 13 of 1922.—Shop Hours (Witwatersrand and Pretoria).—Repealed by Ordinance No. 5 of 1923.**

**No. 14 of 1922.—Pounds Amendment.**

*Section 1.—Amends section twenty-seven of Ordinance No. 7 of 1913.*

*Section 2.—Short Title.*

1923.

**No. 1 of 1923.—Additional Appropriation (1922-1923).**

**No. 2 of 1923.—Poll Tax (Penalty).—Repealed by Ordinance No. 10 of 1928.**

**No. 3 of 1923.—Appropriation (Part 1923-1924).**

**No. 4 of 1923.]**

*Assented to 11th April, 1923.*

#### AN ORDINANCE

**To make Special Provision for certain Financial Matters and in respect of Matters involving Charges upon, or Expenditure of, the Revenues of the Province.**

*(Date of Operation, 25th April, 1923.)*

*(English copy signed by Governor-General.)*

BE IT ENACTED by the Provincial Council of Transvaal as follows:—

**Expenditure in respect of Pupils Attending Primary Schools and Pursuing Portion of Secondary Course.**

1. Notwithstanding the definition of "Primary School" contained in section two of the Education Act, 1907 (Transvaal) it shall be lawful to incur expenditure in respect of pupils attending a Primary School who have completed the course of primary instruction and are proceeding with a portion only of the course of secondary instruction, although a secondary department has not been established under the provisions of section *twenty-three* of the same Act; and the provisions of this section shall be deemed to have been in force from the 1st April, 1921.

**Amendment of Section one of Ordinance No. 5 of 1916.**

2. Section *one* of the Transvaal Teachers' Pensions Ordinance No. 5 of 1916, shall be and is hereby amended by the repeal of the interpretation of the term "contributions".

**Amendment of Section one of Ordinance No. 13 of 1919.**

3. Section *one* of the Transvaal Hospital Nurses' Pensions Ordinance No. 13 of 1919, shall be and is hereby amended by the repeal of the interpretation of the term "contributions".

**Payment of Allowance as Member of Provincial Council to G. Hills.**

4. The payment of the allowance as a member of the Provincial Council to G. Hills from the date of his election, viz., 23rd November, 1921, is hereby approved.

**Appointments of certain Teachers and Secretaries to Governing Bodies of High Schools.**

5. Notwithstanding anything in any education law contained the appointments of the teachers and secretaries to Governing Bodies of High Schools appearing in the First Schedule to this Ordinance at the rates of salary specified in the case of each such teacher or secretary are hereby approved.

**Establishment of certain Schools.**

6. The schools appearing in the Second Schedule to this Ordinance shall be deemed to have been established with effect from the date specified in the case of each such school.

**Payment of certain Bursaries held at East Rand Trades School.**

7. Notwithstanding anything in any law contained the payment of trans-

port and boarding bursaries to certain pupils attending the East Rand Trades School for the calendar year ended 31st December, 1922, is hereby approved. **Charge upon Revenues of certain Amounts otherwise Payable as Pension Contributions by other Officials.**

8. Notwithstanding anything in any pension law contained any member of the Transvaal Education Department who was granted leave of absence without pay in order to become enrolled for military service during the war may be required to pay the superannuation contributions under the provisions of section *thirty-one* of the War Special Pensions Act 1919, in respect of such leave prior to the first day of April 1917, in which case the Provincial Revenue Fund shall likewise be required to pay its contributions under the said section of the said Act for the said period.

**Award of Bursaries to Students at Domestic Science School, Johannesburg.**

9. Notwithstanding anything in any education law contained, students may be admitted to the Domestic Science School, Johannesburg, for the purpose of taking a course of training for teaching, and such students may be awarded bursaries in accordance with the regulations governing the award of bursaries tenable at institutions established under sub-section (1) of section *twenty-six* of the Education Act 1907 (Transvaal). The provision of this section shall be deemed to have been in force from 1st April, 1921.

**Short Title.**

10. This Ordinance may be cited for all purposes as the Financial Adjustments Ordinance, 1923.

**FIRST SCHEDULE.**

Name.	Date of Appointment.	Rank.	Scale.
1. Voordewind, C. J. ....	1/10/20	Teacher.....	£305 fixed.
2. Borman, J. G. ....	1/10/20	Teacher.....	£305 "
3. Du Toit, F. J. ....	1/10/20	Acting Principal.....	£305 "
4. Spruyt, J. W. ....	1/10/20	Acting Principal.....	£305 "
5. Martin, H. ....	1/10/20	Teacher.....	£305 "
6. Voordewind, S. J. P. ....	1/10/20	Teacher.....	£305 "
7. Joubert, J. J. ....	1/10/20	Teacher.....	£305 "
8. Oosthuizen, B. J. S. ....	1/10/20	Teacher.....	£305 "
9. Boon, L. B. ....	1/10/20	Teacher.....	£305 "
10. Pienaar, C. A. ....	1/10/20	Teacher.....	£305 "
11. Kirsteen, W. F. A. ....	1/10/20	Acting Principal.....	£305 "
12. Barnard, J. H. ....	1/10/20	Teacher.....	£305 "
13. Pistorius, J. H. ....	1/10/20	Acting Principal.....	£305 "
14. Ferreira, R. S. ....	1/10/20	Acting Principal.....	£305 "
15. Redlinghuis, M. P. S. ....	1/10/20	Teacher.....	£272 "
16. Nutt, L. G. ....	1/10/20	Teacher.....	£305 "
17. Olivier, D. G. ....	1/10/20	Teacher.....	£305 "
18. Erasmus, L. J. ....	8/ 8/21	Acting Principal.....	£305 "
19. Mohr, L. J. ....	19/ 7/21	Teacher.....	£272 "
20. Terblanche, J. J. ....	1/10/20	Teacher.....	£305 "
21. Schuman, P. W. S. ....	25/ 1/ 22	Principal, High School.....	£530-£20-£730
22. Nel, J. J. ....	1/ 2/22	Principal, High School.....	£530-£20-£730
23. Martin, M. A. ....	1/10/20	Principal, Primary School.....	£440-£20-£540
24. Hinds, E. R. ....	1/10/20	Principal, Primary School.....	£560-£20-£660
25. Cubitt, G. M. ....	1/10/20	Principal, Primary School.....	£440-£20-£540
26. Morrison, A. ....	4/ 4/21	Instructor, Trades School.....	£380
27. Organe, S. G. ....	16/ 7/21	Teacher.....	£440
28. Brabazon, K. J. M. ....	5/ 2/21	Teacher.....	£380
29. Van der Spuy, S. J. ....	21/12/20	Sec., Gov. Body, Zeerust High School.....	£60
30. Minnaar, J. D. ....	11/10/20	Sec., Gov. Body, Standerton High School.....	£60

**SECOND SCHEDULE.**

New Boys' High School, Pretoria .....	<i>Established.</i>
Benoni Boys' High School .....	1/2/1922
	1/2/1922

No. 5 of 1923.]

(Assented to 4th May, 1923.)

**AN ORDINANCE**

**To Amend the Law relating to Shop Hours and to Regulate the Hours of Employment of Shop Assistants.**

(Date of operation, 23rd May, 1923.)

(English copy signed by Governor-General.)

BE IT ENACTED by the Provincial Council of Transvaal as follows:—

**PRELIMINARY.**

**Application of Ordinance.**

\*1. (1) This Ordinance shall apply to every municipality and within a

\* Amended by Ordinance No. 12 of 1935 and Ordinance No. 8 of 1936.

distance of five miles beyond the boundaries thereof provided that the Administrator may by Proclamation extend the operation of this Ordinance to any other area.

(2).—*Repealed by the Shops and Offices Act, 1939.*

#### Interpretation of Terms.

2. In this Ordinance unless inconsistent with the context—

“ Administrator ” shall mean the officer appointed under sub-section (1) of section *sixty-eight* of the South Africa Act, or any amendment thereof, acting on the authority of the Executive Committee of the Province;

“ auctioneer ” shall mean any person who undertakes or conducts any sale by public auction other than a person who is exempted from taking out an auctioneer’s licence under Law No. 1 of 1885, or any law amending the same;

“ chemist ” shall mean a person in possession of a registration certificate entitling him to practise as a chemist and druggist under the Medical, Dental, and Pharmacy Ordinance, 1904, or any amendment thereof;

“ closing hour ” shall mean the hour after which it is unlawful under this Ordinance to open or keep open any shop;

“ coffee stall ” shall mean any moveable structure or stall on wheels at which are sold only such articles of food and drink as are by the general custom of trade usually sold at coffee stalls for immediate consumption and tobacco and matches;

“ department ” shall mean a part of a shop set apart for the sale of a particular class of goods or the business carried on in such part of a shop; provided that not less than six white assistants are exclusively employed therein in addition to the head or person in control thereof;

“ goods or merchandise ” shall include food, drink, meals, refreshments, and the services customarily rendered by hairdressers and barbers;

“ hawker ” shall mean any person who travels with a wagon or other vehicle (other than a hand barrow or handcart propelled by himself) and who carries goods for sale;

“ municipality ” shall mean the area or district under the jurisdiction of a town council, village council or health committee constituted under the Local Government Ordinance, 1926, or any amendment thereof;

“ native shop ” shall mean a shop in on or from which trade is carried on mainly with persons other than white persons, provided that the occupier of such shop has complied with the provisions of sub-section (1) of section *five* hereof;

“ normal hours ” shall mean the days and hours on and during which a shop is permitted by section *three* to be open;

“ occupier ” shall mean the person, company, association, or partnership having charge of any shop or owning the business thereof, or employing any person in or in connection with any shop, and shall include the manager, agent, or other person acting in the general management or control of any shop, or the head or person in control of a department;

“ open ” in relation to a shop shall mean open for admission to a person for the purpose of selling or supplying to him in such shop any goods or merchandise; or for the purpose of taking an order or for the display of samples to a person;

“ pedlar ” shall mean any person who travels on foot and without a vehicle (other than a hand barrow or handcart propelled by himself) or with a pack animal or carrier and who carries goods for sale;

“ privileged shops ” shall mean shops specified in the first column of the schedule to section *four*;

“ public holiday ” shall mean and include any public holiday established under the provisions of the Public Holidays Act, 1910, or any amendment thereof;

“ shop ” shall mean any building or portion of a building, structure, room, market stall, tent, booth, vehicle (other than the delivery van of a shop), or any place whatever, separately occupied, if such building, portion of a building, structure, room, market stall, tent, booth, vehicle (other than the delivery van of a shop), or other place, be used for the sale, packing or dispatching therein, thereon, or therefrom of goods or merchandise, or for the storage of goods for sale, and shall include—

- (1) the office and counting-house in connection with such business;
- (2) any workroom being a portion of such shop, provided that such shop has no steam, electrical or any other mechanical power and that not more than two assistants are employed therein; and
- (3) the premises on which an auctioneer ordinarily carries on his business;
- (4) the premises of a merchant tailor;

but shall not include—

(a) any premises which under the provisions of the Factories Act, 1918, or any amendment thereof, are defined as a factory, and from which goods are packed or dispatched;

(b) any premises licensed for the sale of intoxicating liquors under the provisions of the Liquor Act, 1928, or any amendment thereof, and

(c) any sample room of a commercial traveller or manufacturer's agent;

(d) any military, police or prison shop or canteen;

(e) any coal distributing depot;

(f) any motor garage or service station wherein or wherefrom is conducted the business or repairing, assembling, overhauling, garaging or selling of motor vehicles, and, in the case of service stations where the premises are used for the sale of petrol, oils, tyres and other motor accessories and in respect of which a garage licence is held;

“shop assistant” or “assistant” shall mean any salesman, window-dresser, clerk, orderman, book-keeper, dispatch clerk, or packer and any other person employed in or about a shop, and any person employed in or about an auctioneer's business, but shall not include an occupier, or any person employed solely as a caretaker, or as cleaner, or other domestic servant; provided that in any shop where not more than three assistants are employed the occupier of that shop not being the owner of the business shall for the purposes of this Ordinance be deemed to be a shop assistant;

“week” for the purposes of this Ordinance means seven consecutive days commencing at the hour of twelve midnight on Sundays.

## CHAPTER I.

### SHOP HOURS.

#### Normal Hours.

3. (1) Except as provided in this section and sections *four*, *five*, and *six* no person shall open or keep or permit to be open a shop, and no person shall in or from a shop sell or supply any goods or merchandise or take any order or display any samples, and no auctioneer, hawker, or pedlar shall carry on his business—

\* (a) on any Sunday or public holiday; provided that the prohibition herein contained or in any other law against trading on a Sunday or public holiday shall not apply to hawkers and pedlars in respect of the sale of flowers in the vicinity of hospitals and cemeteries; provided further that the prohibition herein contained or in any other law against trading on a Sunday shall not apply to hawkers and pedlars in respect of the sale of ice-cream and other frozen sweetmeats on Sundays up to 11.30 p.m.;

(b) earlier than seven o'clock in the morning;

(c) later than 6 p.m. on Monday, Tuesday, Thursday and Friday and in the case of butcher shops 5 p.m. or such earlier hour as may be fixed by the Administrator in terms of sub-section (5) of this section on Monday, Tuesday, Thursday and Friday;

† (d) later than twelve o'clock noon on Wednesday, or six o'clock in the evening of Saturday; provided always—

(i) that shops may be kept open on Wednesdays until six o'clock in the evening if they be closed not later than one o'clock in the afternoon on Saturdays, provided that the occupier shall have obtained the written permission of the Administrator and provided further that such permission shall be binding upon such occupier for a period of not less than six months from the date thereof and thereafter until the Administrator shall have cancelled such permission;

‡ (ii) that all shops within an area defined by the Administrator (who is hereby authorized so to do) by proclamation in the *Provincial Gazette* (hereinafter referred to as a defined area) may be open on Wednesdays until six o'clock in the evening and all shops situate within any defined area shall be closed at one o'clock in the afternoon on Saturdays, provided that privileged shops may be open until such later hours as are prescribed in section *four* of this Ordinance.

In relation to any shop to which such permission applies and in any defined area all the provisions of this Ordinance specially relating to the keeping open of shops on Wednesdays and Saturdays respectively shall be read as if the word “Saturday” appeared therein instead of the word “Wednesday” and *vice versa*.

(iii) that the Administrator shall not exercise the power conferred upon him by sub-paragraph (ii) of this paragraph until after the presentation to him of a resolution taken by a local authority as defined in section *two* of the Local Government Ordinance, 1939 (Ordinance No. 17 of 1939)

\* As amended by Ordinance No. 12 of 1935.

† As amended by Ordinance No. 19 of 1928.

‡ As amended by section *one* of Ordinance No. 21 of 1941.

requesting that an area be defined in terms of sub-paragraph (ii) of this paragraph;

(iv) that the resolution referred to in sub-paragraph (iii) of this paragraph shall state the boundaries of the area which it is desired to define as aforesaid. Such area shall not include more than one municipality and shall not extend beyond five miles of the boundaries of such municipality;

\* (iii) that the Administrator shall not exercise the power conferred upon him by sub-paragraph (ii) hereof until after the presentation to him of such petition as is hereinafter described;

\* (iv) that every petition for the definition of an area under this paragraph shall—

(a) be signed by a majority of persons carrying on business in such area who are holders of their current general dealer's licences issued by lawful authority and whose names are registered as voters in any municipal or parliamentary voters' roll then in force in the said area;

(b) state the boundaries of such area which shall include not more than one municipality and any portion of the region within five miles of the boundary of such municipality which does not fall within another municipality.

(2) During "Nachtmaal" observance it shall be lawful for an occupier, subject to written permission by the Administrator first had and obtained to keep open his shop until 6 p.m. on not more than twelve Saturdays in any calendar year at the time of any such "Nachtmaal" observance; provided that the shop be closed at 12 noon of the Wednesday preceding such Saturday.

† (3) Subject to the consent of the Administrator any occupier of a butcher shop who deals in Kosher meat and whose shop shall not be open from six a.m. to six p.m. on any Saturday shall be permitted to open such shop and to employ his assistants therein on such Saturday from—

(i) 6.15 p.m. to 9.15 p.m. during the months of April to September (inclusive); and

(ii) 7.15 p.m. to 10.15 p.m. during the months of October to March (inclusive).

(4) Notwithstanding anything to the contrary in this Ordinance contained it shall be lawful during the fifteen minutes following the closing hour to serve customers who were already in the shop at the closing hour.

(5) The Administrator may on the recommendation of a local authority as defined in section two of the Local Government Ordinance, 1939 (Ordinance No. 17 of 1939) by Proclamation in the *Provincial Gazette* determine that all butcher shops situated within the area of jurisdiction of such local authority shall close at such earlier hour as may be fixed by him in such Proclamation.

(6) When the licensee of any shop other than a butcher shop is also licensed to sell meat in its raw and natural state under a retail butcher's licence, such meat may only be sold from or offered or exposed for sale in a separate room specially set apart for that purpose. The hours prescribed for butchers' shops shall apply to such room. Any person who sells such meat from or offers or exposes for sale such meat in a place other than such room or who sells such meat from such room outside the prescribed hours shall be guilty of an offence against this Ordinance and liable on conviction to the penalties prescribed in section twelve; provided that the provisions of this sub-section shall not apply to butcheries connected with Native and Asiatic eating-houses classified as privileged shops.

\* 4. (a) Outside normal hours privileged shops may be open for the sale of such goods for consumption or use on or off the premises on such days and during such hours as are herein specified, namely—

Shops.	Goods.	Days.	Hours outside normal hours.
Restaurants.....	Freshly prepared meals, hot or cold drinks, bread, fresh fruit, sweets, confectionery, tobacco and matches	Daily..... Weekdays..... Wednesdays..... Sundays..... Holidays.....	6 to 7 a.m. 6 p.m. to 11.30 p.m. 12 noon to 11.30 p.m. 6 a.m. to 11.30 p.m. 6 a.m. to 11.30 p.m.
Tearoom.....	Freshly prepared meals, hot or cold drinks, bread, fresh fruit, sweets, confectionery, tobacco and matches	Daily..... Weekdays..... Wednesdays..... Sundays..... Holidays.....	6 to 7 a.m. 6 p.m. to 11.30 p.m. 12 noon to 11.30 p.m. 6 a.m. to 11.30 p.m. 6 a.m. to 11.30 p.m.
Sweet shops, confectionery shops, and candy kitchens	Sweets and confectionery, tobacco and matches	Daily..... Weekdays..... Wednesdays..... Sundays..... Holidays.....	6 to 7 a.m. 6 p.m. to 11.30 p.m. 12 noon to 11.30 p.m. 6 a.m. to 11.30 p.m. 6 a.m. to 11.30 p.m.

\* As amended by Ordinances No. 19 of 1928, No. 8 of 1936, and No. 21 of 1941.

Shops.	Goods.	Days.	Hours outside normal hours.
Fruiterers and florists....	Fruit (which shall not include dried or canned or preserved fruits and jams), vegetables, flowers, tobacco and matches	Daily..... Weekdays..... Wednesdays..... Sundays..... Holidays.....	6 to 7 a.m. 6 p.m. to 11.30 p.m. 12 noon to 11.30 p.m. 6 a.m. to 11.30 p.m. 6 a.m. to 11.30 p.m.
Tobacconists.....	Smokers' requirements.....	Daily..... Weekdays..... Wednesdays..... Sundays..... Holidays.....	6 to 7 a.m. 6 p.m. to 11.30 p.m. 12 noon to 11.30 p.m. 6 a.m. to 11.30 p.m. 6 a.m. to 11.30 p.m.
Bakers.....	Bread, cakes, pastries, sweets, and confectionery	Weekdays, except holidays	6 a.m. to 7 a.m.
Butchers.....	Meat.....	Weekdays, except holidays	6 a.m. to 7 a.m.
Fishmongers.....	Fish.....	Weekdays, except holidays	6 a.m. to 7 a.m.
Icemongers.....	Ice.....	Weekdays, except holidays	6 a.m. to 7 a.m.
Poulterers.....	Poultry and game.....	Weekdays, except holidays	6 a.m. to 7 a.m.
Dairies.....	Milk (except tinned milk), cream, butter, eggs, and cheese	Weekdays, except holidays Wednesdays..... Sundays and holidays	{ 6 a.m. to 7 a.m. 6 p.m. to 7 p.m. 4 p.m. to 7 p.m. 6 a.m. to 9 a.m. 4 p.m. to 7 p.m. 6 a.m. to 7 a.m.
Native and Asiatic eating-houses, restaurants or tearooms and butcheries connected therewith, provided for, and used exclusively by persons other than white persons	Meals, refreshments, tobacco, matches, eatables, and drinkables prepared and/or unprepared	Daily..... Wednesdays..... Sundays and holidays	{ 6 a.m. to 7.30 p.m. 12 noon to 7.30 p.m. 6 a.m. to 7.30 p.m.
Native shops (subject to the provisions of section five)	General goods.....	Mondays..... Tuesdays..... Thursdays..... Fridays..... Saturdays..... Daily.....	} 6 p.m. to 7.30 p.m.
Garage.....	Requirements for motor vehicles to enable such to proceed only	Daily.....	All hours.

(b) Any occupier of a privileged shop who sells or permits to be sold outside normal hours any goods or merchandise other than goods or merchandise specified in the second column of the schedule to this section shall be guilty of an offence and the magistrate may, in addition to the imposition of the penalties prescribed in section *twelve*, order that such occupier and, during the period determined hereunder, that every successor to such occupier shall close his shop at the normal hour for such period as the magistrate may determine, provided that the magistrate may in his discretion subsequently release any successor to such occupier from the operation of the said order. Any occupier or successor as aforesaid who opens or permits his shop to be open in contravention of the magistrate's order shall be guilty of an offence.

\*(c) Pedlars and hawkers licensed as such may sell the goods specified in the second column of the schedule to this section outside the normal hours on such days and during such hours as are specified in the third and fourth columns respectively of such schedule, provided that it shall not be lawful for pedlars or hawkers to sell any goods or merchandise on Sundays, excepting fresh milk which may be sold by them during the hours prescribed for dairies on such days, and flowers which may be sold by them in terms of the first proviso to paragraph (a) of sub-section (1) of section *three* and ice-cream or frozen sweetmeats which may be sold by them on Sundays up to 11.30 p.m.

**Native Shops.**

†5. (1) The occupier of a native shop shall be entitled to keep such shop open outside normal hours as prescribed in the schedule to section *four* hereof, provided that the local authority (as defined in section *two* of the Local Government Ordinance, 1939, Ordinance No. 17 of 1939) within whose area of jurisdiction such shop is situated has no objection to such shop being kept open during the hours prescribed in the schedule to section *four* and has issued a certificate to that effect to such occupier; provided further that such occupier has notified the shop inspector that his shop is a native shop and has in his possession a document addressed to him and signed by the shop inspector acknowledging the receipt of such notification and provided further that after receipt of such document the occupier displays a notice in such form, shape and size and in such position as may be prescribed by regulation intimating to the general public that his shop is a native shop.

\* As amended by section *two* of Ordinance No. 21 of 1941.  
† As amended by section *three* of Ordinance No. 21 of 1941.

The aforesaid document shall not be transferable, and shall be produced by the occupier on the demand of a shop inspector or any member of the police force.

(2) Outside normal hours no person other than a native or coloured person shall be supplied by any occupier with any goods and merchandise in or from any native shop.

(3) Any occupier who displays a notice not in conformity with any regulation framed under this Ordinance or displays a notice to the effect that his shop is a native shop, and fails on the demand of a shop inspector or any member of the police force to produce the document referred to in sub-section (1) hereof or who in any other way contravenes the provisions of this section shall be guilty of an offence and the magistrate may, in addition to the imposition of the penalties prescribed in section *twelve*, order that such occupier, and during the period determined hereunder, that every successor to such occupier shall close his shop at the normal hour and remove the notice referred to in sub-section (1) hereof during such period as the magistrate may determine provided that the magistrate may in his discretion subsequently release any successor to such occupier from the operation of the said order. Any occupier or successor as aforesaid who opens or permits his shop to be opened or displays the said notice in contravention of the magistrate's order shall be guilty of an offence.

(4) The provisions of this section shall apply to the areas mentioned in the schedule to this Ordinance and to such other areas as the Administrator may by proclamation declare.

#### **Trading on certain Sundays, Public Holidays, etc.**

**6.** Notwithstanding anything hereinbefore contained:—

\* (1) In the event of any Sunday immediately preceding a public holiday, or in the event of one public holiday immediately succeeding another, it shall be lawful for bakers, butchers, fishmongers, icemongers, and poulterers to keep open their shops and sell thereat and deliver therefrom bread, meat, fish, ice, poultry, and game until nine o'clock in the morning on the second of the two consecutive days, provided that before exercising such privilege the occupier of any shop as aforesaid shall have given reasonable written notice to the Shop Inspector.

(2) It shall be lawful for the Administrator to authorize the keeping open of such shops as aforesaid and the sale and delivery of the aforesaid articles on Sundays and public holidays from 6 a.m. until 9 a.m. in places where he may be satisfied that the climatic conditions are such as to require such authority to be granted.

*Sections 7, 8 and 9.—Repealed by the Shops and Offices Act, 1939.*

#### **GENERAL.**

#### **Inspection by Authorized Person.**

**10.** (1) The Administrator shall appoint male and female officers, to be called shop inspectors, to have authority within the municipalities of Pretoria, Johannesburg, Alberton, Alexandria, Benoni, Brakpan, Boksburg, Elsburg, Germiston, Greymont, Krugersdorp, Roodepoort-Maraiburg, Springs, and Witbank, and within a distance of five miles beyond the boundaries of any such municipality, and may appoint such other inspectors for any area in this Province. The said shop inspectors may at any time enter any shop in order to ascertain whether the provisions of this Ordinance are being complied with, and for such purpose may inspect any document issued under the provisions of this Ordinance, or time-table or the licence or licences under which the business of such shop is carried on.

(2) (a) It shall be the duty of all members of the police force to assist shop inspectors in the enforcement of the provisions of this Ordinance;

(b) In any area where no shop inspector has been appointed as aforesaid, any member of the police force may carry out the duties of a shop inspector as prescribed in sub-section (1).

(3) Any person who prevents or obstructs any such shop inspector or member of the police force acting as shop inspector as aforesaid from entering any shop or carrying out his duty therein, or refuses to furnish any reasonable information asked for by such shop inspector, shall be guilty of an offence.

#### **Power to Make Regulations.**

† **11.** The Administrator may from time to time make, alter, amend, or revoke regulations—

- (1) prescribing the duties of shop inspectors;
- (2) prescribing the form, shape, size, and position of the notice to be displayed by an occupier of a native shop under section *five* hereof;
- (3) Generally for the better carrying out of the objects of this Ordinance.

\* As amended by section *four* of Ordinance No. 21 of 1941.

† As amended by The Shops and Offices Act of 1939.

All regulations or any alteration or rescission thereof shall be published in the *Provincial Gazette*.

#### Penalties.

\*12. Any person who contravenes any of the provisions of this Ordinance or the regulations framed thereunder shall be guilty of an offence and shall be 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 six months. All fines recovered and bails estreated for any offence under this Ordinance or any regulation thereunder shall be paid into the Provincial Revenue Fund.

#### Criminal Responsibility of Occupiers for Unlawful Acts of Managers, Agents, Servants or Members of Families.

†13. (1) Whenever in any shop or in the pursuance or course of any transaction in or arrangement made or commenced in any shop, the manager, agent or servant of the occupier or any member of the occupier's family does or omits to do anything which it would be an offence under this Ordinance for such occupier to do or omit to do such occupier shall be deemed himself to have done or omitted to do such thing and be liable on conviction to the penalties therefor unless he proves to the satisfaction of the Court that—

(a) in doing or omitting to do such thing such manager, agent, servant or member of his family was acting without his connivance or permission; and

(b) all reasonable steps were taken by him to prevent any act or omission of the kind in question; and

(c) it was not under any condition or in any circumstance within the scope of the authority or the course of the employment of the manager, agent, servant or member of the family to do or omit to do acts whether lawful or unlawful of the character of the act or omission charged; Provided that the fact that the occupier issued instructions forbidding any act or omission of the kind in question shall not of itself be accepted as sufficient proof that he took all reasonable steps to prevent the act or omission.

(2) Whenever an occupier is by virtue of the provisions of sub-section (1) of this section liable for anything done or omitted by another person, the latter shall also be liable therefor as if he were the occupier provided that the provisions of this section shall not relieve such other person from any other liability which he may have incurred apart from the liability which he shares with the occupier.

#### Bona Fide Mistake of Fact no Defence.

†13bis. It shall be no defence to any charge under this Ordinance that the accused or his principal or agent or servant was *bona fide* under a belief in the existence of any fact which had it in truth existed would have made lawful the act or omission which is the subject of the charge.

#### Presumptions.

†13ter. (1) At the trial of any charge under this Ordinance alleging an unlawful sale of goods or merchandise a sale of goods or merchandise shall be presumed to have taken place if the Court hearing the case is satisfied that notwithstanding the absence of proof that money passed a transaction in the nature of a sale actually took place.

(2) At the trial of any charge under this Ordinance alleging that a shop was unlawfully opened or kept open or permitted to be open it shall be deemed, unless the contrary is proved, that such shop was opened or kept open or permitted to be open, as the case may be, for the purpose of selling or supplying goods or merchandise in such shop or for the purpose of taking an order or for the display of samples if—

(a) any person other than the occupier or his manager, agent or servant was found in such shop at the time of the alleged offence; or

(b) any door leading into such shop was found open at the time of the alleged offence.

#### Exceptions.

14. Nothing in this Ordinance—

(1) shall apply to any bazaar or sale of work for charitable or other purposes from which no private profit is derived, nor to the hawking or peddling of newspapers, nor to coffee stalls, nor to the business of an undertaker, nor to the sale by any *bona fide* farmer or market gardener on any land occupied by him for farming or gardening purposes of any produce, raised by him on that land nor to the hawking or peddling of such produce by such persons as aforesaid;

‡(2) shall be deemed to prohibit the manufacture of bread or breadstuffs,

\* As amended by section five of Ordinance No. 21 of 1941.

† Sections thirteen to thirteen ter added by Ordinance No. 21 of 1941.

‡ As amended by Ordinance No. 12 of 1935.



the reception, storage, and treatment of milk and milk products, the reception for storage of fish, meat, poultry, and game, or the printing, publishing and distributing of newspapers or the employment of persons for such purposes at any time during the day or night;

(3) shall apply to the delivery of ice or any necessary requirements to hospitals and nursing institutions or in case of sickness to private persons on requisition in writing signed by a medical practitioner or certificated nurse;

(4) shall apply to the sale before 11.30 p.m. of programmes, catalogues, or refreshments at any theatre, concert hall, or other place of amusement during any performance;

(5) shall apply to any bookstall or refreshment-room at any railway station or to any dining or refreshment car on any railway;

(6) shall apply to the supply of medical and surgical requisites by chemists in case of emergency at any time;

(7) shall apply except on Sundays and public holidays to an auctioneer holding a sale at a private residence of the private effects of the owner or tenant of such residence;

(8) shall apply to any sales of goods and merchandise held at any agricultural, horticultural, or poultry show promoted by a society or association recognised for the purposes of this Ordinance by the Administrator;

(9) shall apply to any sales of goods and merchandise by Co-operative Agricultural Societies or Associations registered under the Co-operative Societies Act, 1922, or any amendment thereof if such sales are confined only to members of such societies or associations.

#### Repeal.

15. The following Ordinances shall be and are hereby repealed: The Shop Hours Ordinance, 1916; The Shop Hours Amendment Ordinance, 1917; The Shop Hours Amendment Ordinance, 1919; and The Shop Hours (Witwatersrand and Pretoria) Ordinance, 1922.

#### Short Title.

16. This Ordinance may be cited for all purposes as the Shop Hours Ordinance, 1923.

#### SCHEDULE.

AREAS TO WHICH THE PROVISIONS OF SECTION *five* ARE APPLICABLE.

Municipality of Alberton.

Municipality of Alexandra.

Municipality of Benoni.

Municipality of Boksburg.

Municipality of Brakpan.

Municipality of Germiston.

Municipality of Greymont.

Municipality of Johannesburg.

Municipality of Krugersdorp.

Municipality of Roodepoort-Maraisburg.

Municipality of Springs.

(1) Municipality of Nigel.

(2) Municipality of Witbank.

(3) Municipality of Vereeniging.

(4) Municipality of Klerksdorp.

(5) Certain area in Magisterial District of Witbank.

(6) Township of Oogies and certain farms.

(7) Native Location, Potchefstroom.

(8) Farms Slaaihoek No. 153 and Mamre No. 84, Carolina.

(9) Farm Eleazer No. 18, Klerksdorp.

(10) Farm Smutssoog No. 143, Ermelo.

No. 6 of 1923.—Second Appropriation (Part 1923-1924).

No. 7 of 1923.—Education Act Amendment.

No. 8 of 1923.—Companies Tax.—Repealed by Ordinance No. 12 of 1933.

No. 9 of 1923.]

#### AN ORDINANCE

To Provide for a Tax on Sales by Public Auction.

(Date of Operation, 11th July, 1923.)

(English copy signed by Governor-General.)

BE IT ENACTED by the Provincial Council of Transvaal as follows:—

#### Levy of Tax.

1. From and after the 16th July 1923, there shall be levied a tax on all sales by public auction or deemed to be by public auction held within the Province.

**Definitions.**

2. In this Ordinance, unless inconsistent with the context:

"Administrator" shall mean the officer appointed under section *sixty-eight* of the South Africa Act, 1909, or any amendment thereof, acting on the authority of the Executive Committee.

"Commissioner" shall mean the Commissioner for Inland Revenue or any person lawfully acting in that capacity or on his behalf.

"Auctioneer" shall mean any person who undertakes or conducts any sale by public auction and shall include:

(a) any agent who sells any class of property that is deemed to have been sold by public auction;

(b) any person in charge of a public abattoir or cold storage or municipal meat inspection depot where meat is deemed to have been sold by public auction.

**By whom Payable.**

3. The tax shall be payable by the seller through the auctioneer or other agent on his behalf at the following rates:—

In respect of sales of fixed property as defined in the Transfer Duty Proclamation, No. 8 of 1902, and leases of such fixed property: One per cent. of the sale price.

In respect of sales of agricultural and pastoral produce (including meat): One per cent. of the sale price.

In respect of sales of all other movable property: Two and one-half per cent. of the sale price.

**When Sale deemed to have been Effected by Public Auction.**

4. A sale by public auction shall be deemed to have been effected if:

(a) any fixed property or lease or live stock after being duly advertised for sale by public auction is withdrawn or not submitted for public sale and is within thirty days of the advertised date of sale sold out of hand; provided that in respect of such sale an auctioneer or agent is entitled to a selling commission;

(b) any meat is disposed of (otherwise than by public sale) through a public abattoir or a cold storage or is submitted for municipal inspection at such place.

**Auctioneer Agent of Seller.**

5. An auctioneer shall be deemed the agent of the seller and the seller shall reimburse him for any tax paid on his behalf and for any penalties which the auctioneer may have incurred and adjudged by the Commissioner to have been incurred through the fault of the seller.

**Payment.**

6. Every auctioneer shall within 14 days from the expiry of each calendar month furnish to the Receiver of Revenue of the district where he is duly licensed or to such other officer as the Commissioner may appoint a sworn declaration of all sales within the preceding month and shall at the same time pay to the Receiver of Revenue the tax due on such sales. If no sales have been effected in any month a declaration to that effect shall be furnished by the due date. If any tax remains unpaid after the due date there shall be added to the amount payable as a penalty for every month or part of a month during which it shall be outstanding a sum calculated at the rate of five per cent. of the amount of the tax. Such penalty shall be recoverable as part of the tax.

**Auctioneer to Produce Records.**

7. Every auctioneer shall upon demand at any time within one year after the date of any sale produce to the Receiver of Revenue all vendue rolls, accounts and vouchers relative to the sales for such period for examination and shall furnish any information required for the verification of such accounts.

**Security.**

8. No auctioneer shall conduct a sale until he shall first have furnished to and deposited with the Receiver of Revenue security of such nature and in such form as the Administrator shall from time to time prescribe by regulation.

**Refunds.**

9. If any sale is bona fide cancelled or is set aside or declared void by a court wholly or in part the tax to that extent shall be refunded subject to its being established to the satisfaction of the Commissioner that the claim is well founded.

**Exemptions.**

10. There shall be exempt from tax:

(a) any sales on behalf of the Union Government, a Provincial Administra-

tion, the Land and Agricultural Bank of South Africa, a local authority, or any ecclesiastical, educational, or charitable institution;

(b) five pounds of any sale on any day by an individual seller whose aggregate sales on that day do not exceed fifty pounds;

(c) any disposal of meat in respect of which auction dues have been levied within the Province immediately prior to slaughter;

\*(d) any disposal of live stock or meat or cotton lint where it is established to the satisfaction of the Receiver of Revenue that such live stock or meat is due to be exported overseas;

(e) any portion of the selling price that is established to the satisfaction of the Receiver of Revenue represents actual expenditure on railage to the place of sale.

#### Penalties.

11. Any person who wilfully makes a false declaration or fails to lodge the security prescribed in section *eight* or neglects to maintain adequate accounts for the purposes of section *seven* shall be guilty of an offence and liable on conviction to a fine not exceeding £50 or in default of payment to imprisonment with or without hard labour for a period not exceeding six months.

Any person who:

(a) fails or neglects to furnish any declaration or return as and when required by this Ordinance or,

(b) fails to pay the tax by the date prescribed in section *six* shall in addition to the penalty for late payment be guilty of an offence and liable on conviction to a fine not exceeding £10 or in default of payment to imprisonment for a period not exceeding one month.

#### Recovery of Tax.

12. Any tax imposed under the provisions of this Ordinance shall be a debt due to the Provincial Revenue Fund of the Transvaal, and may when payable be sued for and recovered by action in any court of competent jurisdiction by the Commissioner suing on behalf of the Administrator.

#### Disposal of Fines.

13. All fines recovered for any offence under this Ordinance shall be paid into the Provincial Revenue Fund.

#### Prescribed Forms.

14. The Commissioner for Inland Revenue shall have the administration of this Ordinance, and may from time to time prescribe any forms or declarations required for the purposes thereof.

#### Regulations.

15. The Administrator may make regulations not inconsistent with the provisions of this Ordinance for the better carrying out of the objects and purposes thereof.

#### Short Title.

16. This Ordinance may be cited for all purposes as the Auction Sales Tax Ordinance, 1923.

**No. 10 of 1923.—Roads Amendment.**—*Repealed by Ordinance No. 9 of 1933.*

**No. 11 of 1923.—Appropriation (1923-1924).**

**No. 12 of 1923.—Licensing Amendment.**—*Superseded by Act No. 32 of 1925.*

**No. 13 of 1923.—Motor Vehicle Amendment.**—*Repealed by Ordinance No. 17 of 1931.*

**No. 14 of 1923.—Local Government Amendment.**—*Repealed by Ordinance No. 11 of 1926.*

1924.

**No. 1 of 1924.—Unauthorised Expenditure (1921-1922).**

**No. 2 of 1924.—Additional Appropriation (1923-1924).**

**No. 3 of 1924.—Appropriation (Part 1924-1925).**

**No. 4 of 1924.—Second Appropriation (Part 1924-1925).**

**No. 5 of 1924.—Third Appropriation (Part 1924-1925).**

**No. 6 of 1924.—Local Government Amendment.**—*Repealed by Ordinance No. 11 of 1926.*

**No. 7 of 1924.—Johannesburg Municipality Borrowing Powers Amendment.**

*Section 1.—Amends section 36 of Ordinance No. 3 of 1903.*

*Section 2.—Short Title.*

**No. 8 of 1924.—Motor Vehicle Amendment.**—*Repealed by Ordinance No. 17 of 1931.*

**No. 9 of 1924.—Transvaal Teachers' Pensions Amendment.**

*Section 1.—Makes provision enabling male officers to retire at 55. Embodied in the revised print as following on section 22 of Ordinance No. 17 of 1927, which in turn follows immediately after section 9 in the Principal Ordinance No. 5 of 1916.*

\* As amended by section one of Ordinance No. 11 of 1924.

*Section 2.—Short Title.*

**No. 10 of 1924.—Appropriation (1924-1925).**

**No. 11 of 1924.—Auction Sales Tax Amendment.**

*Section 1.—Amends section 10 of Ordinance No. 9 of 1923.*

*Section 2.—Short Title.*

**No. 12 of 1924.—Local Government Amendment.—Repealed by Ordinance No. 11 of 1926.**

1925.

**No. 1 of 1925.—Financial Adjustments.—Approving the appointment of teacher L. J. Botha.**

**No. 2 of 1925.—Additional Appropriation (1924-1925).**

**No. 3 of 1925.—Appropriation (Part 1925-1926).**

**No. 4 of 1925.—School Board Election.—*Obsolete.***

**No. 5 of 1925.—Local Government Amendment.—Repealed by Ordinance No. 11 of 1926.**

**No. 6 of 1925.—Second Appropriation (Part 1925-1926).**

No. 7 of 1925.]

[Assented to 1st July, 1925.]

### AN ORDINANCE

**To Prohibit the Desecration or Removal of Graves in Burial Places and to Regulate Matters relating to the Removal or Disposal of Dead Bodies.**

*(English Copy signed by Governor-General.)*

BE IT ENACTED by the Province of Transvaal as follows:—

#### Definitions.

1. In this Ordinance unless inconsistent with the context:—

“Administrator” shall mean the officer appointed under sub-section (1) of section *sixty-eight* of the South Africa Act, 1909, or any amendment thereof;

“body” shall mean any human dead body including the body of any still-born child;

“burial-place” shall mean and include any burial-ground whether public or private or any place whatsoever wherein is buried, interred, cremated or otherwise disposed of or intended to be buried, interred, cremated, or otherwise disposed of one or more bodies.

#### Bodies not to be Removed without Authority.

\*2. (1) No person shall desecrate or destroy or, without the written permission of the Administrator, remove or cause to be removed any grave within a burial place and no person shall remove or cause to be removed or shall in any manner exhume or cause to be exhumed or disturb or cause to be disturbed a body or the remains of a body which may have been interred in a burial-place without an authorization in writing under the hand of the Administrator nor unless such precautions be observed as may be prescribed by the Administrator or any medical practitioner appointed by him; any person who shall contravene the provisions of this section or who shall fail to observe any such precaution aforesaid shall be liable on conviction to a fine not exceeding fifty pounds (£50) and in default of payment to imprisonment with or without hard labour for a period not exceeding six months or to such imprisonment without the option of a fine.

#### Saving.

(2) No person shall be guilty of an offence under this section who temporarily or of necessity disturbs or causes to be disturbed a body or the remains of a body for the purposes of interring another body in the same grave.

The following section was inserted after section two by section *three* of Ordinance No. 9 of 1931:—

#### Interference with Burial Places situate outside Municipal Area Prohibited.

†3. (1) “Except with the approval of the Administrator, no person shall in any way whatsoever interfere with, damage, remove, or destroy in any burial place or portion thereof situate outside a municipality any tomb, monument, headstone, cross, inscription, rail, fence, chain or erection of any kind whatever.

(2) Any person who shall act in contravention of this section shall upon conviction be liable to a penalty not exceeding twenty pounds or in default of payment to imprisonment with or without hard labour for a period not exceeding three months.

(3) The expression “municipality” for the purposes of this section means any area or district placed under the jurisdiction of a local authority as defined in the Local Government Ordinance, 1926, or any amendment thereof.”

\* As substituted by section *one* of Ordinance No. 9 of 1931.

† As amended by section *two* of Ordinance No. 9 of 1931.

**Short title.**

\*4. This Ordinance may be cited for all purposes as the Removal of Graves and Dead Bodies Ordinance, 1925.

**No. 8 1925.—Pedlars and Hawkers.**—*Repealed by Ordinance No. 11 of 1928.*  
**No. 9 of 1925.—Local Authorities Rating Amendment.**—*Repealed by Ordinance No. 11 of 1926.*

**No. 10 of 1925.—Shop Hours Amendment.**

*Section 1.—Amends section six (1) of Ordinance No. 5 of 1923.*

*Section 2.—Repealed by the Shops and Offices Act, 1939.*

*Section 3.—Short Title.*

**No. 11 of 1925.—General Dealers (Control).**—*Repealed by Ordinance No. 12 of 1926.*

**No. 12 of 1925.—Transvaal Teachers' Pension Amendment.**

*Section 1.—Repeals section thirteen of Ordinance No. 5 of 1916 and substitutes a new section 13.*

*Section 2.—Short Title.*

**No. 13 of 1925.—Municipal Elections Amendment.**—*Repealed by Ordinance No. 4 of 1927.*

**No. 14 of 1925.—Appropriation (1925-1926).**

**No. 15 of 1925.—Poll Tax Amendment.**—*Repealed by Ordinance No. 10 of 1928.*

**No. 16 of 1925.—Local Government Further Amendment.**—*Repealed by Ordinance No. 11 of 1926.*

**No. 17 of 1925.—Unauthorised Expenditure (1922-1923).**

**No. 18 of 1925.—Unauthorised Expenditure (1923-1924).**

**No. 19 of 1925.**

Assented to 21st September, 1925.

**AN ORDINANCE**

**To provide for the Extirpation of Stock-destroying Carnivora.**

*(English copy signed by Governor-General.)*

BE IT ENACTED by the Provincial Council of Transvaal as follows:—

**Definitions.**

†1. In this Ordinance unless inconsistent with the context:—

“vermin club” shall mean any body of white persons established as a club for the purpose of destroying vermin by means of dogs and guns and registered as such at the office of the Administrator;

“owner” shall mean the registered owner, lessee, or occupier of a farm;

“hunt” or “hunting” shall, in respect of vermin, mean the shooting at, coursing, pursuing, taking and killing of vermin by any member or members of a vermin club duly authorized thereto in writing by a responsible official of such club;

“laying of poison” shall mean the placing out or setting of poison by any person with the intention to kill vermin;

“vermin” shall mean any—  
 silver or side-striped jackal,  
 red or black-backed jackal,  
 lynx or red cat,

aardwolf or maanhaar jackal,  
 or any other animal or bird which the Administrator may from time to time by proclamation declare to be vermin;

“ward” shall mean any area or district or portion of a district which the Administrator may by proclamation declare as an area in which vermin clubs may be established for the purposes of this Ordinance.

**Application of Ordinance.**

2. This Ordinance shall apply to every district in the Province of Transvaal, excluding any area under the jurisdiction of a local authority as defined by the Local Government Ordinance 1912, and any area lawfully established as a game reserve.

‡Notwithstanding anything to the contrary contained in this section it shall be lawful for a vermin club to hunt vermin on any land the property of a local authority provided the permission in writing of such local authority is obtained in which case the provisions of section seven of this Ordinance shall not apply to such local authority.

**Registration of Vermin Clubs.**

§3. (1) (a) It shall be lawful for seven or more persons to establish a club in a ward and to register such club as a Vermin Club in a register to be kept for that purpose at the Office of the Administrator. The register shall

\* As amended by section four of Ordinance No. 9 of 1931.

† As amended by section one of Ordinance No. 5 of 1928 and section one of Ordinance No. 11 of 1930

‡ As amended by section one of Ordinance No. 6 of 1926.

§ As amended by section two of Ordinance No. 5 of 1928

contain the name of the club, the ward in which the official headquarters of such club are situated, the names of the captain, vice-captain, and secretary of the club, who shall be the responsible officials of the club.

Upon the registration of any vermin club hereunder the Administrator shall cause a notification thereof to be transmitted to the secretary of such club.

(b) It shall be the duty of every registered vermin club to cause to be kept an official club register in which shall be regularly entered—

(i) the names and addresses of the members of the club;

(ii) the number and description of the dogs employed for hunting purposes and their owners;

(iii) the number of hunts made during the period 1st January to 30th November in any year and the names of members who took part therein;

(iv) the number and description of vermin killed and recovered during the year.

(c) It shall be competent for any vermin club to impose a fine of not exceeding ten shillings on any member who fails to attend two consecutive official hunts. If a member is unable to attend a hunt, he may supply a substitute who shall be a male European not under the age of fifteen years. In such case the member shall be deemed not to have been absent. Any fine so imposed shall be paid within fourteen days, failing which, the same may be recovered by civil action in any competent court by the captain suing on behalf of the club.

(2) The secretary of a vermin club shall transmit to the Provincial Secretary during the month of November in each calendar year a return showing the number and kinds of vermin killed by such club during such year.

(3) If any secretary of a vermin club should fail to comply with the provisions of sub-section (2) hereof, or if it be shown to the satisfaction of the Administrator that any vermin club has failed to carry out the purpose for which it was established, it shall be lawful for the Administrator to dissolve such club.

#### Laying of Poison Prohibited.

4. No person shall lay poison or cause poison to be laid on any farm in any ward in which one or more vermin clubs have been established, for the purposes of destroying vermin by means of dogs, and registered under the provisions of section two of this Ordinance, unless he shall first have obtained the consent in writing of a responsible official of one of such vermin clubs.

Nothing in this section contained shall be held to apply to the laying of poisoned grain for the destruction of spring hares or birds or to the spraying of poison for the killing of locusts

#### Hunting without Permission.

5. (1) Save as hereinafter provided no vermin club shall hunt vermin on any farm save with the written permission of the owner first had and obtained; but any such permission given by such owner after the event with reference to such event shall be as valid as if given before the event.

(2) Any person who shall so hunt vermin without the permission herein prescribed shall be guilty of a contravention of the provisions of this Ordinance, and nothing herein contained shall deprive an owner of his legal remedies for trespass or for damage sustained through the wrongful entry on his farm of any person or persons.

#### Administrator may Authorize Hunting on Farms.

\*6. (1) It shall be lawful for the magistrate on proof to his satisfaction that the owner of any farm in the District unreasonably refuses to permit a vermin club to hunt vermin on such farm, to grant an order in writing to a vermin club, authorizing the members thereof to enter and hunt vermin on such farm on such date or dates as may in such order be specified. A notice in writing of such order signed by the magistrate specifying the date or dates as aforesaid, shall be served upon such owner at least two days prior to any dates specified as aforesaid.

(2) Any owner who shall have received notice as aforesaid, and who shall prevent or attempt to prevent any member of a vermin club duly authorized thereto under the provisions of this section from entering and hunting vermin upon the farm of such owner shall be guilty of a contravention of the provisions of this Ordinance.

(3) An owner upon whose farm an organized hunt on vermin has been made by a vermin club or any number of members thereof, not being less than seven, in pursuance of the magistrate's order referred to in sub-section (1) hereof shall pay to the secretary of such club, as and for services rendered, in respect of each head of vermin which is dislodged, killed and recovered on such farm or, having been dislodged on such farm, is killed and recovered, during the

\* As amended by section three of Ordinance No. 5 of 1928 and section two of Ordinance No. 6 of 1926.

course of such hunt, on an adjoining or neighbouring farm, the amount specified in the schedule to this Ordinance.

**Owner who Permits Hunting on his Farm but renders no Assistance.**

7. Any owner of a farm who does not refuse permission to a vermin club to hunt vermin on his farm, but who refuses to render assistance to the hunters by personally taking part in the hunt or providing a substitute for the purpose, shall pay to the secretary of the club as and for services rendered, in respect of each head of vermin which is dislodged, killed, and recovered on such farm or, having been dislodged on such farm, is killed and recovered, during the course of such hunt, on an adjoining or neighbouring farm, the amount specified in the schedule to this Ordinance.

**Proof of Killing.**

8. An officer of the club who shall in every case be in charge of any hunt referred to in sections *five* and *six* hereof shall take a written note in the presence of two or more hunters of the number and kinds of vermin so killed and recovered which shall be the property of the club.

**Payment how Made or Recovered and Money how Used.**

9. (1) The secretary of the club shall thereupon serve or cause to be served upon the owner, either by personal service or through the post, a notice specifying the number and kinds of vermin killed and recovered on the farm and the total amount payable by such owner, and calling upon him to pay the same within thirty days from date of service.

If the amount be not paid within the aforesaid period the same may be legally recovered at the instance of the secretary by civil process in the court of the magistrate of the district.

(2) All moneys so paid to or recovered by the secretary of any club, shall be deposited to the credit of such club and shall be used in furtherance of the extermination of vermin.

**Exemption from Payment of Dog Tax.**

\*10. Anything to the contrary in the Registration and the Control of Dogs Act 1907 or any amendment thereof contained a member of a vermin club shall be entitled to exemption from the payment of any tax in respect of one dog the property of such member, and it shall not be necessary to issue any certificate as required by sub-section (1) of section *two* of the said Act in respect of such dog provided—

(1) that such dog has been duly registered as the property of such member in a register to be kept by the secretary of the club for that purpose;

(2) that such member has paid his subscription or otherwise fulfilled his obligations towards his club;

(3) that such member or his substitute as well as the dog in respect of which exemption for any year is claimed hereunder has taken part during the period 1st April to 30th November of such year in at least seven hunts on vermin organized by his club.

(4) that such member shall be required to make application to the receiver of revenue on the prescribed form for the metal badge required to be issued in terms of the said Act, and shall cause the badge issued in respect of any such year to be worn at all times by the dog in respect of which exemption is granted hereunder;

(5) that if a member of a vermin club not entitled to exemption in terms of this section pays the tax prescribed in the Registration and Control of Dogs Act 1907 or any amendment thereof in any calendar year in respect of one dog registered in terms of sub-section (1) of this section, such member shall, upon compliance with the further requirements of this section during the same calendar year, be entitled to a refund of the tax so paid upon application in the prescribed form accompanied by a certificate from the secretary of his club that he has complied with such requirements.

**Power of Administrator to make Regulations.**

†11. The Administrator may from time to time make regulations for any or all of the following purposes:—

(1) Limiting the membership of a vermin club to persons resident in the ward for which such club is registered;

(2) for requiring the submission by vermin clubs of any returns or information that may be required by the Administrator and for prescribing the form in which such returns or information shall be rendered;

(3) generally for the better carrying out of the objects and purposes of this Ordinance;

(4) for empowering any magistrate, receiver of revenue or police officer to demand and inspect books and documents belonging to any vermin club.

\* As amended by section *three* of Ordinance No. 6 of 1926 and section *four* of Ordinance No. 5 of 1928.

† As substituted by section *five* of Ordinance No. 5 of 1925 and added to section *two* of Ordinance No. 11 of 1930.

**Penalty.**

12. Any person contravening any of the provisions of this Ordinance or of the regulations framed thereunder shall be liable on conviction to a fine of not exceeding £10 or in default of payment to imprisonment with or without hard labour for a period not exceeding three months for each such contravention.

**Short Title.**

13. This Ordinance may be cited for all purposes as the Vermin Destruction Ordinance 1925.

## SCHEDULE.

<i>Kinds of Vermin.</i>	<i>Amount.</i>
Silver or side-striped jackal.....	£5
Red or black-backed jackal.....	£5
Lynx or red cat.....	£5
Aardwolf or maanhaar jackal.....	£1

**No. 20 of 1925.—Registration and Control of Dogs Amendment.—Repealed by Ordinance No. 18 of 1933.**

**No. 21 of 1925.—Betting Taxation Amendment.—Repealed by Ordinance No. 26 of 1925.**

**No. 22 of 1925.—Townships Act Amendment.—Repealed by Ordinance No. 11 of 1931.**

**No. 23 of 1925.—Companies Tax Amendment.—Repealed by Ordinance No. 12 of 1933.**

**No. 24 of 1925.—Licensing of Bookmakers and Taxation Amendment.—Repealed by Ordinance No. 26 of 1925.**

**No. 25 of 1925.—Repealed by Ordinance No. 26 of 1925.**

**No. 26 of 1925.**

Assented to 27th October, 1925.

**AN ORDINANCE**

**To provide for the Licensing of Bookmakers and the Imposition of Taxation in respect of Betting.**

*(English copy signed by Governor-General.)*

**BE IT ENACTED** by the Provincial Council of Transvaal as follows:—

**Definitions.**

1. For the purpose of this Ordinance, unless inconsistent with the context:—  
 “Administrator” shall mean the officer appointed under section *sixty-eight* of the South Africa Act or any amendment thereof, acting on the authority of the Executive Committee.

“Bookmaker” shall mean any person who on any racecourse or at any place opened under the provisions of section *six* of the Betting Ordinance, 1918, accepts or receives or agrees to accept or receive any money security or valuable thing in any form whatsoever as or for the consideration for any assurance undertaking promise or agreement express or implied to pay or give thereafter any money or valuable thing upon any event or contingency of or relating to any horse race, as defined in the Horse Racing and Betting Restriction Act 1909 or any amendment thereof or as or for the consideration for securing the paying or giving by some other person of any money or valuable thing on any such event or contingency as aforesaid. The expression “bookmaker” shall not include any person who is employed in connection with a totalizator as defined in the aforesaid Act or any amendment thereof.

“Commissioner” shall mean the Commissioner for Inland Revenue or any officer lawfully acting in that capacity or on his behalf.

“Committee” shall mean the committee constituted under section *seven* of the Betting Ordinance, 1918.

“Club” shall mean any person or association of persons licensed to hold race meetings under the provisions of the Horse Racing and Betting Restriction Act, 1909, or any amendment thereof and for the purposes of the penal provisions of this Ordinance shall mean the person in whose name the licence is issued.

“Licence” or “statement” shall mean a licence or statement in the form prescribed by the Commissioner.

“Magistrate” shall mean a magistrate assistant magistrate or any officer lawfully acting in such capacity.

**Bookmakers to be Licensed.**

2. (1) From and after the commencement of this Ordinance it shall not be lawful for any person to carry on the business of a bookmaker unless he shall be in possession of a licence issued under the provisions of this Ordinance and any person who shall carry on any such business without being in possession of a licence as aforesaid shall be guilty of an offence against this Ordinance



and shall be liable on conviction to a fine not exceeding one hundred pounds or in default of payment to imprisonment with or without hard labour for a period not exceeding six months.

(2) Any bookmaker who is in possession of a bookmaker's licence issued under any law repealed by this Ordinance shall during the currency of such licence be deemed to be licensed for the purposes of this Ordinance and shall be subject to the provisions thereof.

#### **Bookmakers to apply to Receiver of Revenue for Licence.**

3. Any person who desires to take out a licence as required by the provisions of the preceding section shall make application to the nearest Receiver of Revenue and such licence shall be granted on payment of a fee of five pounds. Every such licence shall be valid for a period of twelve months from the date of the issue thereof, unless such licence is sooner cancelled or determined as hereinafter provided.

#### **Licence—How Cancelled.**

4. A magistrate may on conviction of any bookmaker for any contravention of the provisions of this Ordinance cancel the licence issued to him and such licence shall thereupon cease and determine. In the event of cancellation under the provisions of this section no refund of any portion of any licence fee shall be made and no licence thereafter issued to such bookmaker shall be valid unless the approval of the Administrator is first obtained to the issue of such licence.

#### **Clubs Prohibited from allowing Unlicensed Bookmakers on Racecourse—Penalties.**

5. Any club which shall permit any person to carry on the business of bookmaker on any racecourse in respect of which the club holds a licence issued under the provisions of the Horse Racing and Betting Restriction Act 1909 or any amendment thereof unless such bookmaker shall be in possession of a licence as hereinbefore provided shall be guilty of an offence and shall be liable on conviction to a penalty not exceeding one hundred pounds. In the case of a conviction under the provisions of this section the Administrator may cancel any licence to hold race meetings which may have been issued to the club under the provisions of the Horse Racing and Betting Restriction Act 1909 or any amendment thereof.

#### **Tax on Betting Transactions.**

\*6. (1) There shall be charged, levied and collected for the benefit of the Provincial Revenue Fund the fees and taxes set out hereunder, payable as follows:—

A. By every person who has made a bet with a bookmaker on the amount payable to such person by the bookmaker in respect of that bet excluding the amount representing the amount staked—

- (i) at any racecourse situate within a radius of three miles from the General Post Office, Johannesburg: 5 per cent.,
- (ii) at any place opened under the provisions of section *twenty* of the Horse Racing and Betting Ordinance, 1927: 5 per cent.,
- (iii) on any racecourse at a race meeting on a race run elsewhere than on such racecourse: 5 per cent.,
- (iv) on any racecourse situate outside a radius of three miles from the General Post Office, Johannesburg, in respect of races which are run on the same day at such racecourse: 2½ per cent.

B. By every bookmaker—

- (a) in respect of every race meeting at which he carries on his occupation,
  - (i) in the Gold Ring: £5;
  - (ii) in the Silver Ring: £1;
- (b) in respect of the right to bet at the place opened under the provisions of section *twenty* of the Horse Racing and Betting Ordinance, 1927—
  - (i) in Johannesburg and Pretoria: £50 per annum per cubicle;
  - (ii) elsewhere than in Johannesburg and Pretoria: £25 per annum per cubicle;
- (c) on the amount of his net winnings arising from bets made—
  - (i) at any racecourse situate within a radius of three miles from the General Post Office, Johannesburg: 5 per cent.,
  - (ii) at any place opened under the provisions of section *twenty* of the Horse Racing and Betting Ordinance, 1927: 5 per cent.,
  - (iii) on any racecourse at a race meeting on a race run elsewhere than on such racecourse: 5 per cent.;
  - (iv) on any racecourse situate outside a radius of three miles from the General Post Office, Johannesburg, in respect of races which are run on the same day on such racecourse: 2½ per cent.

\* As substituted by section one of Ordinance No. 17 of 1940.

(2) Whenever the tax is payable by the person mentioned in paragraph A of sub-section (1) of this section, the bookmaker who is liable to pay to that person the sum on which the tax has become due shall deduct from the sum the amount of the tax and pay it over to the Provincial Revenue Fund with the amounts payable by the bookmaker in terms of paragraph B of sub-section (1) of this section, provided that—

(i) a bookmaker shall not be required to pay over to the Provincial Revenue Fund in respect of the taxes mentioned in paragraph A and sub-paragraph (c) of paragraph B of sub-section (1) of this section any greater amount than would be payable if the tax were calculated upon a sum arrived at by deducting the aggregate amount staked with him in respect of the winning bets in any race from the aggregate amount staked with him in respect of all bets in the same race;

(ii) for the purpose of determining the sum upon which tax shall be calculated in terms of proviso (i) there shall be deducted from such sum the amount of any stake deposited by the bookmaker with any other bookmaker carrying on business in the Union of South Africa in respect of any bet taken by him from such other bookmaker and which he has lost on any horse in any race, subject to satisfactory proof being furnished that the stake so deposited by the bookmaker was for the purpose of covering the whole or any portion of his liability in respect of any bets laid or to be laid by him in respect of the same horse in the same race;

(iii) the amount of any stake to be deducted in terms of proviso (ii) shall not exceed the aggregate amount staked with the bookmaker in respect of bets made with him on the same horse in the same race.

(3) For the purposes of this section and of section *eight* of this Ordinance the term 'net winnings' shall mean the gross amount of money, security or valuable thing deposited or agreed to be deposited as a stake with a bookmaker by any person in respect of every bet made by such person with such bookmaker less any amount payable to any person by such bookmaker in settlement of any winning bet inclusive of the amount deposited as a stake in respect of such winning bet.

#### **Security to be Lodged by Bookmakers.**

\*7. (1) Every bookmaker shall deposit with the Commissioner or any person authorized by him as security for the payment of the taxes and fees imposed by section *six* of this Ordinance such sum of money or other security as the Administrator may prescribe and no bookmaker shall carry on his business notwithstanding the possession of a licence issued under section *two* of this Ordinance unless he is in possession of a receipt issued by the Commissioner or other officer duly authorized by him acknowledging that the required security has been deposited provided that the Commissioner shall return to the bookmaker any sum deposited as security on the expiration or earlier determination of any licence issued under the provisions of this Ordinance and provided further that it shall be lawful for the Commissioner to retain any amount deposited with him under the provisions of this section in payment or part payment of any tax or fee as aforesaid due by the bookmaker depositing the security.

(2) Any security held by the Commissioner or any person authorized by him under the provisions of any law or regulation repealed by this Ordinance shall be deemed to have been deposited under the provisions of sub-section (1) of this section and such security shall be subject to the provisions thereof.

#### **Sworn Statements to be Lodged by Bookmakers.**

†8. (1) For the purpose of determining the amount of tax to be paid to the Provincial Revenue Fund in terms of section *six*, every bookmaker shall within seven days after every race-meeting at which he carried on business and every bookmaker who has carried on business at the place referred to in sub-paragraph (c) (ii) of paragraph B of sub-section (1) of section *six* or who has accepted bets in the circumstances referred to in sub-paragraph (c) (iii) of paragraph B aforesaid, shall not later than Tuesday in each week lodge with the Commissioner a sworn declaration in such form as the Administrator may by regulation prescribe and shall at the same time pay the tax due thereon.

(2) In the event of there being no transactions to be declared under sub-section (1) the bookmaker shall lodge a nil statement on the prescribed form.

(3) If any bookmaker lodges any false statement or fails to lodge any statement or fails to pay the tax as required by this section the licence issued to him may be cancelled by the Administrator and no refund of any portion of the licence fee shall be made and no licence thereafter issued to such bookmaker shall be valid unless the approval of the Administrator is first obtained to the issue of such licence.

\* As amended by section *two* of Ordinance No. 5 of 1941.

† As substituted by section *two* of Ordinance No. 17 of 1940 and amended by section *three* of Ordinance No. 5 of 1941.

**List of Bookmakers to be Lodged.**

9. (1) It shall be the duty of every club to lodge with the Commissioner or any other person authorized by him, within four days of the holding of any race meeting a list of all bookmakers who carried on business at such race meeting.

(2) It shall be the duty of the Committee to lodge with the Commissioner or any other person authorized by him not later than Tuesday in each week a list of all bookmakers who carried on business during the preceding week.

(3) Any club or Committee which fails to comply with the provisions of this section shall be guilty of an offence against this Ordinance.

\*(4) No bookmaker shall be permitted by any club or committee to carry on his business unless he has first obtained a licence issued under section *three* of this Ordinance, and in addition has paid for the year commencing on the 1st day of July and ending on the 30th day of June following the fee prescribed by sub-paragraph (b) of paragraph B of sub-section (1) of section *six* of this Ordinance if he is liable for such fee: Provided that in the case of a bookmaker who commences operations after the 1st day of July in any year such fee shall be paid for the period ending on the 30th day of June following the date on which such bookmaker commences operations.

**Penalties for False Statement.**

10. Any bookmaker wilfully making a false statement shall be guilty of an offence against this Ordinance and shall on conviction be liable to the penalties prescribed for the crime of perjury.

**Commissioner may demand Production of Books, etc.**

11. The Commissioner may at any time demand from any bookmaker the production of his books or any other documents for examination by him or any person appointed by him. Any bookmaker who fails to produce such books or documents or to allow the Commissioner or any person appointed by him to inspect such books or documents shall be guilty of an offence.

**Tax.—How Recovered.**

12. The tax payable under the provisions of this Ordinance shall be deemed to be a debt due to the Provincial Administration of Transvaal and may be sued for and recovered in any court of competent jurisdiction by the Commissioner.

**Fines, etc., paid into Provincial Revenue Fund.**

13. All fines and fees or any security forfeited under the provisions of this Ordinance shall be paid into the Provincial Revenue Fund.

**Police may demand production of Licence on Racecourse.**

14. Any police officer of or above the rank of sergeant may on a racecourse on a day on which a race meeting is being held demand from any bookmaker the production of his licence and any such bookmaker who refuses to produce such licence on such demand shall be guilty of an offence.

**Penalties.**

15. Any person who is convicted of an offence against this Ordinance or any regulation made thereunder for which no penalty is specifically provided, shall be liable to a fine not exceeding fifty pounds or in default of payment to imprisonment with or without hard labour for a period not exceeding six months.

**Repeal.**

16. The following Ordinances shall be and are hereby repealed:—

Licensing of Bookmakers and Taxation Ordinance 1917.

Betting Taxation Ordinance 1918

Licensing of Bookmakers and Taxation Amendment Ordinance 1921.

Betting Taxation Amendment Ordinance 1921.

Betting Taxation Amendment Ordinance 1925.

Licensing of Bookmakers and Taxation Amendment Ordinance 1925.

Provided that notwithstanding such repeal any tax due under the provisions thereof shall be deemed to be a debt due to the Provincial Administration of Transvaal and may be sued for and recovered in any court of competent jurisdiction.

**Regulations.**

17. The Administrator may make regulations for the better carrying out of the intent, objects and purposes of this Ordinance and may prescribe penalties for any breach thereof.

\* As amended by section *three* of Ordinance No. 17 of 1940 and section *four* of Ordinance No. 5 of 1941.

**Short Title.**

18. This Ordinance may be cited for all purposes as the Licensing of Book-makers and Taxation Ordinance, 1925.

1926.

No. 1 of 1926.—Additional Appropriation (1925-1926).

No. 2 of 1926.—Appropriation (Part 1926-1927).

No. 3 of 1926.—Whippet Racing (Control).—*Repealed by Ordinance No. 16 of 1940.*

No. 4 of 1926.—Poll Tax Amendment.—*Repealed by Ordinance No. 10 of 1923.*

No. 5 of 1926.

Assented to 23rd April, 1926.

**AN ORDINANCE**

**To provide for the Registration and Control of Charitable Institutions.**

(Date of operation, 19th May, 1926.)

(English copy signed by Governor-General.)

BE IT ENACTED by the Provincial Council of Transvaal as follows:—

**Definitions.**

1. In this Ordinance unless inconsistent with the context:

“Administrator” shall mean the officer appointed under section *sixty-eight* of the South Africa Act, 1909, or any amendment thereof, acting on the authority of the Executive Committee;

“certificate” shall mean a certificate issued under the provisions of section *two* of this Ordinance;

“charitable institution” shall mean any institution or organization which obtains or seeks to obtain contributions in money or in kind from sources other than the Government of the Union or the Provincial Administration and applies or declares its intention to apply such contributions in whole or in part to the distribution of alms, doles or other form of assistance in money or in kind.

**Certificate of Registration.**

2. (1) From and after a date which shall be fixed by the Administrator by proclamation in the *Provincial Gazette* it shall not be lawful for any charitable institution as defined in this Ordinance to be conducted unless the committee or person responsible for the management thereof is in possession of a certificate of registration, which may be issued by the Administrator.

(2) Any application for a certificate shall—

(a) specify the arrangement made or proposed to be made for the management of the charitable institution;

(b) state whether or not payment is made or proposed to be made to collectors of funds for the charitable institution, and if so, on what rate or basis payment is made or proposed to be made; and

(c) supply such further information as may be required by the Administrator on such form as he may prescribe.

In the event of it being found, after a certificate has been issued, that the information supplied under this sub-section is incorrect, the Administrator may forthwith cancel such certificate.

(3) Any person who conducts a charitable institution in contravention of the provisions of this section shall be guilty of an offence against this Ordinance.

**Certificate may be Cancelled.**

3. (1) The Administrator may at any time in his discretion cancel any certificate issued under the provisions of the preceding section.

(2) In the event of the cancellation of any certificate issued under the provisions of this section, the person in whose name such certificate was issued shall return the certificate to the Administrator within a period of fourteen days from the date of the notification of the Administrator's decision to cancel the certificate. Any person who fails to return the certificate within the time aforesaid shall be guilty of an offence.

**Contravention—Forfeiture of Moneys Collected.**

4. Any person who issues any appeal or who solicits assistance in cash or in kind towards the maintenance, conduct or management of a charitable institution which is not in possession of a certificate shall be guilty of an offence against this Ordinance, and the magistrate may order that any moneys collected in contravention of the provisions of this section shall be paid to the Administrator who shall devote such moneys to such charitable purposes as he may decide.

**Exemptions.**

5. The Administrator may in his discretion exempt any church or religious body from the provisions of this Ordinance, and such church or religious body shall thereupon be granted an exemption certificate which shall be valid for such period as the Administrator may determine.

**Penalty.**

6. Any person who is convicted of an offence against this Ordinance, or any regulation framed thereunder 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.

**Regulations.**

\*7. The Administrator may make regulations—

(a) compelling the production of any information or documents with regard to the conduct of a charitable institution;

(b) for the inspection of the accounts of a charitable institution;

(c) for the entry by an authorized official upon any premises owned or in possession of a charitable institution;

(d) requiring a charitable institution to keep records of all cases of persons receiving or applying for assistance from such institution and prescribing the form in which such records shall be kept.

(e) for co-operation in philanthropic and charitable effort and public assistance and for co-ordinating the activities of charitable institutions and for the exchange of information between such institutions and the methods to be adopted for combating mendicancy;

(f) for the constitution of advisory boards or boards of control in relation to charitable institutions and for prescribing their functions, powers and duties, for authorizing any such board to constitute for defined areas within its area of jurisdiction local advisory committees and to prescribe their powers and duties and for delegating to any such board the powers of the Administrator contained in sections *three* and *five* of this Ordinance.

(g) for making grants-in-aid to such boards from the Provincial Revenue fund and for regulating their finances;

(h) prescribing fines or other penalties for the breach of any regulations made by the Administrator or by such boards under this Ordinance;

(i) generally making provision for all matters deemed necessary for the due administration of and for giving full effect to the provisions of this Ordinance.

**Short Title.**

8. This Ordinance may be cited for all purposes as the Charitable Institutions (Control) Ordinance, 1926.

**No. 6 of 1926.—Vermin Destruction Amendment.**

*Section 1.*—Amends section two of Ordinance No. 19 of 1925.

*Section 2.*—Amends section six of Ordinance No. 19 of 1925.

*Section 3.*—Amends section ten of Ordinance No. 19 of 1925.

*Section 4.*—Short Title.

**No. 7 of 1926.—Private Hospitals Amendment.**

*Section 1.*—Amends section one of Ordinance No. 6 of 1919.

*Section 2.*—Amends section five of Ordinance No. 6 of 1919.

*Section 3.*—Short Title.

**No. 8 of 1926.—Appropriation (1926-1927).**

**No. 9 of 1926.—Unauthorised Expenditure (1924-1925).**

**No. 10 of 1926.—Pounds Amendment.**

*Section 1.*—Amends section twenty-seven of Ordinance No. 7 of 1913.

*Section 2.*—Amends section thirty-four of Ordinance No. 7 of 1913.

*Section 3.*—Repealed by section nine of Ordinance No. 4 of 1932.

*Section 4.*—Short Title.

**Nop. 11 of 1926.—Local Government.**—Repealed by Ordinance No. 17 of 1939.

**No. 12 of 1926.—General Dealers (Control).**—Repealed by Ordinance No. 3 of 1932.

**No. 13 of 1926.—Municipal Main Roads.**—Repealed by Ordinance No. 9 of 1933.

1927.

**No. 1 of 1927.—Appropriation (Part 1927-1928).**

**No. 2 of 1927.—Additional Appropriation (1926-1927).**

**No. 3 of 1927.—Companies Tax Amendment.**—Repealed by Ordinance No. 12 of 1933.

\* As amended by section one of Ordinance No. 21 of 1931 and section one of Ordinance No. 7 of 1933.

No. 4 of 1927.

Assented to 14th June, 1927.

## AN ORDINANCE

To Consolidate and Amend the Law relating to the Election of Members of Municipal Councils in the Province of Transvaal.

(Date of operation, 1st January, 1928.)

(English copy signed by Governor-General.)

BE IT ENACTED by the Provincial Council of Transvaal as follows:—

## PRELIMINARY.

**Repeal of Laws.**

1. The laws mentioned in the First Schedule to this Ordinance shall be and are hereby repealed.

**Interpretation of Terms.**

2. In this Ordinance unless inconsistent with the context—

“ Administrator ” shall mean the officer appointed under sub-section (1) of section *sixty-eight* of the South Africa Act, 1909, or any amendment thereof, acting on the advice and with the consent of the Executive Committee of the Province;

“ commencement of this Ordinance ” shall mean the date on which this Ordinance came into operation;

“ council ” shall mean the council of a municipality constituted under and by virtue of the provisions of the Local Government Ordinance;

“ he, ” “ him, ” “ his ” and “ himself ” shall include the pronouns “ she, ” “ her, ” “ hers ” and “ herself ” respectively;

“ Local Government Ordinance ” shall mean the Local Government Ordinance, 1926, and any amendment thereof;

“ magistrate ” shall mean the magistrate of a magisterial district or sub-district in which a municipality is situate, and in the case of a municipality situate within a portion of a magisterial district for which an additional magistrate has been appointed, the term “ magistrate ” shall include also such additional magistrate;

“ municipality ” shall mean the area or district under the control and jurisdiction of a town council or of a village council whose members are elected under the provisions of this Ordinance;

“ rateable property ” shall mean any property rateable under the provisions of the Local Authorities Rating Ordinance 1912 and any amendment thereof;

“ town clerk ” shall mean the person for the time being lawfully acting in the capacity of town clerk of any municipality;

“ town council ” shall mean a council constituted under and by virtue of the provisions of Chapter I of the Local Government Ordinance;

“ village council ” shall mean a council constituted under and by virtue of the provisions of Chapter VIII of the Local Government Ordinance.

**Application of Ordinance.**

3. (1) This Ordinance shall apply, in the manner and to the extent prescribed herein, to the election of members of the councils of municipalities constituted town and village councils under the Local Government Ordinance, and to the election of any council hereafter constituted a town or village council under the provisions of that Ordinance.

(2) The provisions of Chapters I, II and XII shall apply to the elections of members of town and village councils.

(3) The provisions of Chapters III to X (inclusive) shall apply to the elections of members of town councils only provided that the Administrator may from time to time by proclamation in the *Provincial Gazette* apply to the elections of members of any village council all of the said provisions *mutatis mutandis* in lieu of the provisions of Chapter XI.

(4) The provisions *mutatis mutandis* of Chapters III to X (inclusive) shall be and are hereby applied to the elections of members of the Innesdale Village Council in lieu of the provisions of Chapter XI.

(5) The provisions of Chapter XI shall apply only to the elections of members of village councils other than the Innesdale Village Council and any other village council to the election of members of which the provisions of Chapters III to X (inclusive) have in terms of sub-section (3) been made to apply, provided that the Administrator may from time to time by proclamation in the *Provincial Gazette* apply any or all of the provisions *mutatis mutandis* of sections *sixty-four* to *seventy-three* (inclusive) to the elections of members of any village council in addition to the provisions of Chapter XI.

## CHAPTER I.

## TOWN AND VILLAGE COUNCILLORS.

**Qualifications of Councillors.**

4. Any person, male or female, qualified to be registered as a voter at elections of councillors under this Ordinance shall be qualified to be elected as councillor.

**Disqualification.**

5. No person whose estate is in liquidation or under assignment in trust for his creditors, no person whose estate is sequestrated as insolvent and who has not obtained his rehabilitation, no person of unsound mind declared as such by a competent court, and no person who is disqualified by this Ordinance shall be capable of being elected, or if elected of continuing to be, a councillor.

**Further Disqualification.**

\*6. (1) No person holding any office or place of profit under or in the gift of the council, or who, being indebted to the council in any amount in respect of rates, taxes, advances or fees for a period of three months or longer and having, after the expiry of such period of three months, received written notice from the council calling upon him to pay the amount due by him, fails to pay the same within thirty days of the date on which he receives such written notice nor the spouse of such person, shall be capable of being elected or of continuing to be a councillor; provided that the provisions of this section relating to a person holding any office or place of profit under or in the gift of the council shall not apply to a medical practitioner who is also a councillor and who is requested to act for the council by a majority of two-thirds of the council and with the consent of the Administrator, nor to the spouse of any such medical practitioner.

(2) Any councillor who is not the registered owner of rateable property situated within the municipality who ceases to reside within the municipal area shall cease to possess the qualifications of a councillor and the provisions of section seven shall apply to such councillor.

Provided that where a woman councillor is married in community of property to her husband who is the registered owner of immovable property she shall for the purposes of this sub-section also be deemed to be the owner of such immovable property.

**Circumstances in which Councillor vacates his Office.**

7. Any councillor who shall cease to possess the qualifications by this Ordinance required or who is a paid agent for a candidate at any municipal election under this Ordinance during his term of office, or who shall become disqualified under this Ordinance, shall *ipso facto* vacate his office, and the mayor or the chairman of the village council as the case may be shall at the next meeting of the council declare any such vacancy which may have occurred; and in case any person elected a councillor shall die or become disqualified under the terms of this Ordinance, or cease to be qualified to be a councillor, or shall resign or shall refuse to accept the office of councillor, or in case of any vacancy occurring under Chapter IV of the Local Government Ordinance or in any manner whatever, then such vacancy shall forthwith be filled up in manner directed by this Ordinance, but subject nevertheless to the provisions hereinafter made as to vacancies occurring within three months of the annual election referred to in section *twenty-four* or in section *one hundred and thirty-six*; provided always that a councillor whose seat shall have been declared vacant by the mayor or the chairman as the case may be may apply by motion to the Supreme Court, Transvaal Provincial Division, and if such court be not sitting then to a judge of the Supreme Court to have such declaration set aside; notice of the intention to make such application and the grounds thereof shall be given to the town clerk within two days after such declaration, and the application shall be made within fourteen days thereafter. Any councillor declared disqualified under the provisions of section *thirty-one* of the Local Government Ordinance from continuing to be a councillor shall have the same right of appeal as is hereinbefore provided.

## CHAPTER II.

## VOTERS IN MUNICIPALITIES UNDER TOWN AND VILLAGE COUNCILS.

**Qualifications of Voters.**

8. (a) Every white person, male or female, being a British subject of the age of twenty-one years and upwards who shall have resided within the municipality for a period of six months immediately preceding the publication of the

\* As amended by section *one* of Ordinance No. 9 of 1937 and section *one* of Ordinance No. 8 of 1941.

notice mentioned in section *sixteen* or in sub-section (5) of section *one hundred and twenty-three* as the case may be or his application to be registered on the voters' roll in terms of section *nineteen* of this Ordinance shall subject to the disqualifications hereinafter set out be entitled to be enrolled on the voters' roll for the municipality, provided that no person shall at any one time be enrolled on the voters' roll in more than one ward or in more than one municipality.

(b) Every person, being qualified in all respects as aforesaid except that of residence, who is the registered owner of rateable property within the municipality and does not hold the said property with one or more persons in undivided shares and who is not disqualified under section *ten* or section *eleven* hereof shall be entitled upon application to be enrolled on the voters' roll in respect of the ward in which the said property is situated provided that if such person is the registered owner of rateable property in more than one of the wards of the municipality he shall be entitled to elect the ward in which he will vote, and should he decline or fail to make such election he shall be registered as a voter in such of the said wards as the person framing the voters' roll shall decide, and provided further that if any ward in which he is registered as a voter is divided into polling districts his name shall be registered as a voter in the polling district decided upon by the person framing the voters' roll.

#### Who may Vote.

9. No person whose name does not appear on the voters' roll for the time being in force shall be entitled to vote at any election under this Ordinance.

#### Disqualification.

10. No person of unsound mind declared as such by a competent court shall while of unsound mind be capable of being registered as a voter or of recording his vote at any election under this Ordinance.

#### Further Disqualifications.

11. The following persons shall not be entitled to be enrolled on the voters' roll for the municipality nor qualified to vote at any election held under this Ordinance:—

- (1) Persons at any time convicted of murder, or until the lapse of three years from the date of the expiration of the sentence for any crime for which the punishment is imprisonment with hard labour without the option of a fine, unless a free pardon shall have been granted;
- (2) white persons co-habiting with native or coloured persons.

### CHAPTER III.

#### WARDS AND POLLING DISTRICTS.

##### Division of Municipality into Wards.

12. (1) (a) Every municipality shall be divided into wards, and whenever it shall become necessary to divide into wards a municipality which is not already so divided, the Administrator shall appoint a commission of one or more persons to prepare a scheme for determining the boundaries of such wards, and notice of the sitting of such commission shall be published in the *Provincial Gazette* and in at least one newspaper circulating in such municipality.

(b) The boundaries of the wards of a municipality shall be determined in such a manner that the number of voters in each ward shall, as far as possible, be equal, but that the number of voters shall not in the case of any such ward be more than 15 per cent. above or more than 15 per cent. below that mean number of voters which represents exact equality all fractions being disregarded. The provisions of this paragraph shall govern every subsequent alteration or adjustment under this section.

(2) Every such scheme shall be published in the *Provincial Gazette* and in at least one newspaper circulating in the municipality once a week during three consecutive weeks, and when approved by the Administrator with or without modification, shall come into operation from a date to be notified by proclamation under this section.

(3) Whenever a municipality has been divided into wards, such wards may be increased in number or the boundaries of existing wards may be from time to time altered upon petition presented to the Administrator after a resolution of the council of such municipality passed at a special meeting called for the purpose, and whenever the council shall petition for any such increase or alteration of wards it shall with its petition transmit to the Administrator proposals for any apportionment of the existing councillors rendered necessary by such increase or alteration. Every such petition for an increase or alteration of wards with any proposals for apportionment of councillors may be approved by the Administrator with or without modifications, and subject to the provisions of sub-section (6) hereof shall take effect when so approved



from a date to be notified by proclamation under this section, and from such date every councillor then in office shall hold office for the ward assigned to him for the remainder of the period for which he was elected.

(4) A council may in like manner petition the Administrator to decrease the number of wards of a municipality; provided that any decrease approved by the Administrator shall only take effect in respect of the next ensuing annual election; and provided further that the number of wards of a municipality shall not be so decreased as to affect the period of office for which any councillor shall have been elected. With any such petition the council shall transmit to the Administrator its proposals for—

(a) the apportionment among the altered wards of such councillors as do not go out of office at the date of such annual election; and

(b) the fixing of the wards in respect of which the said annual election shall be held.

Every such petition may be approved by the Administrator with or without modifications, and every councillor in office at the date of the election hereinbefore referred to shall hold office for the ward assigned to him for the remainder of the period for which he was elected.

\* (4) *bis*. Should the number of voters in any ward of a municipality as reflected in the list of voters made in terms of sub-section (1) of section *fifteen* show an excess or shortfall of more than 15 per cent. of the mean number of voters which represents exact equality the council of such municipality shall petition the Administrator for an increase or decrease in the number of wards or for an alteration of the boundaries of existing wards, or for both an increase or decrease as the case may be and alteration of boundaries of wards.

Should the council fail to petition the Administrator as herein required any election in any ward where the number of voters is more than 10 per cent. above or below the mean number of voters as hereinbefore set out shall be null and void.

(5) Notwithstanding anything in this section contained the Administrator whenever he shall exercise the powers conferred upon him by any law of altering the boundaries of a municipality or adjusting the boundaries of adjoining municipalities, may as consequential upon such alteration or adjustment, increase or decrease the number of wards or alter and adjust the boundaries thereof, and may subject to the provisions of sub-section (6) hereof apportion the councillors representing any wards so altered or adjusted among such wards; provided that unless the Administrator shall otherwise decide no such increase, decrease, alteration or adjustment of wards or apportionment of councillors shall take effect except upon a scheme prepared and published as provided in sub-sections (1) and (2) hereof.

(6) If the number of wards into which the municipality is divided is increased and if on such increase the boundaries of the wards are altered, then on the occasion of every such increase and alteration the Administrator may by Proclamation in the *Provincial Gazette* declare which wards shall be deemed to be new wards within the meaning of section *twenty-two* and the councillors holding office at the date of such increase and alteration shall be apportioned among the altered wards (not being new wards) in accordance with the provisions of sub-section (3) or sub-section (5) hereof as the case may require; provided always that the period for which any councillor holds office shall not be affected by such apportionment.

(7) At the first election of councillors for any ward which is or has been declared to be a new ward, three councillors shall be elected for such ward. One of such councillors (being the one who stands first on the poll) shall continue in office until the day of the third annual election next ensuing and no longer and one of such councillors (being the one who stands second on the poll) shall continue in office until the day of the second annual election next ensuing and no longer and the remaining councillor (being the one who stands third on the poll) shall continue in office until the day of the first annual election next ensuing and no longer; and in case there are two or more candidates who have received an equal number of votes at the said poll, or in case there is no poll, the returning officer shall determine by lot which of the candidates shall be elected for a period terminating on the day of the first second or third of such annual elections respectively. For the purpose of this sub-section the last Wednesday in October shall be the day of the annual election.

(8) Every division of a municipality into wards, and every alteration or adjustment of the boundaries of such wards, and every increase in the number of wards under the powers of this section, shall be notified by Proclamation of the Administrator in the *Provincial Gazette*.

(9) Every municipality divided into wards under any law repealed by this Ordinance, shall continue to be so divided and the present boundaries of wards

\* As amended by section *two* of Ordinance No. 9 of 1937 and section *one* of Ordinance No. 4 of 1942.

† The provisions of sub-section (4) *bis* have been suspended for the duration of the war *viz* section *two* of Ordinance No. 9 of 1943.

and of polling districts (if any) of such municipality shall remain until any alteration shall have been effected under this Ordinance.

**Polling Districts.**

13. (1) The Administrator may on the application of a council divide any ward into so many polling districts as he may deem necessary, and may in like manner from time to time increase or decrease the number of such districts, or alter or adjust the boundaries thereof.

(2) Every division of a ward into polling districts and every alteration or adjustment of the boundaries of such districts shall be notified by Proclamation of the Administrator in the *Provincial Gazette*.

(3) The Administrator may appoint a commission of one or more persons to prepare a scheme for determining the boundaries of such districts and notice of the sitting of such commission shall be published in the *Provincial Gazette* and in at least one newspaper circulating in the municipality.

**Powers of Administrator to order Steps to be taken where Matters unprovided for.**

14. If in connexion with the division of any municipality into wards or the division of wards into polling districts or the alteration of the boundaries of the wards or polling districts of any municipality, or the increase in the number of them or the apportionment of councillors among wards any matter shall arise for which this Ordinance does not sufficiently provide, the Administrator may order all such steps to be taken with regard to the election of councillors or otherwise as may be necessary to meet the circumstances of the case and may fix the period for which any councillor to be elected for any ward is to hold office so that the general intent and purpose of the Ordinance may have effect.

CHAPTER IV.

MAKING OF VOTERS' ROLL BY TOWN COUNCILS.

**Provision for making of Voters' Roll and Amendment of such Roll from Time to Time.**

\*15. (1) (a) The council shall during the months of April and May 1928 and thereafter once every three years in the months of March and April cause a list to be made of all persons qualified to be enrolled on the voters roll under the provisions of this Ordinance; the said list shall be sub-divided into as many parts as there are wards of the said municipality and each part shall show in alphabetical order the full name, residential address and occupation of every voter qualified to vote within the ward to which such part refers. §

(b) Whenever the number of wards of a municipality have been increased, decreased or the boundaries altered or otherwise adjusted, the council shall as soon as possible after such increase, decrease, alteration or other adjustment cause such alterations of the voters' roll to be made as may be necessary to show in each part thereof (representing the various wards of the municipality) the particulars of voters resident in each ward.

(2) Whenever any ward has been divided into polling districts, or any increase, decrease, alteration or adjustment of such districts has been made under the provisions of section *thirteen* hereof, the council shall compile from the voters' roll of such ward a register of voters for each polling district, consisting of the voters of the ward resident in such polling district.

(3) The Administrator may--

(a) order all such steps to be taken with regard to the preparation of the first voters' roll for any municipality to which the provisions of this Ordinance may hereafter become applicable as he may deem necessary to meet the circumstances of the case; provided that any expenses incurred in consequence of any order made by the Administrator hereunder shall be borne by the council of the municipality concerned. The provisions of sections *sixteen*, *seventeen* and *eighteen* of this Ordinance shall apply *mutatis mutandis* to the preparation of such first voters' list;

\* (b) fix the months of March and April of any subsequent year within a period of three years from the date of the completion of such first voters' roll as the months in which the council shall frame the next roll in accordance with the provisions of this Ordinance;

(c) notwithstanding anything in this Ordinance contained if any village council is raised in status to a town council the next election after the first election of the new town council shall take place in October the following year in the manner laid down in the Ordinance; this provision to take effect as from the 1st January, 1937.

(4) The town clerk shall, during the months of January, April and July of each and every year (not being the year in which the triennial voters' roll is drawn up) publish a notice once a week for three consecutive weeks in at

\* As amended by section *three* of Ordinance No. 9 of 1937 and by section *three* of Ordinance No. 9 of 1943.

But see sub-section (2) of section *three* of Ordinance No. 9 of 1943 at the end of this section.

least one newspaper circulating in the municipality inviting attention to the provisions of section *nineteen* of this Ordinance and intimating that he will receive applications from qualified persons for enrolment as voters on the voters' roll; \* provided that the town clerk of a municipality may with the consent of the council of that municipality publish the aforesaid notice during the months of June and July of each and every year (not being the year in which the triennial voters' roll is drawn up) in lieu of the aforesaid months of January, April and July.

(5) (a) Save as is provided in paragraph (b) hereof every voter shall be registered in the ward where he resides and shall vote at one of the polling stations provided for such ward; provided that where a division has been made into polling districts every voter shall be registered in the polling district where he resides and shall vote at the polling station provided for such polling district but shall be permitted to vote at any other polling station in the ward in which he is registered, other than the polling station of the polling district in which he is registered, if before voting he shall sign a declaration in the form prescribed in the Second Schedule to this Ordinance.

(b) Subject to the provisions of paragraph (b) of section *eight* hereof every voter, being the registered owner of rateable property who is not resident in the municipality, shall be registered in the ward in which the said property is situated and shall vote at the polling station provided for the polling district in which he is registered as a voter.

(c) All declarations referred to in paragraph (a) hereof shall be taken by the presiding officer of the polling station at which such person desires to vote and shall be kept by such officer and forwarded to the returning officer and shall be open to inspection by the public at all reasonable times for a period of three months after the election.

(d) Any person who willfully makes a false statement in such declaration shall be guilty of an offence and liable on conviction to a fine not exceeding £25 (twenty-five pounds) or in default of payment to imprisonment with or without hard labour for a period not exceeding three months.

(6) Any person who has been registered as a voter in respect of any ward may after any annual election and not later than the thirty-first day of August thereafter, apply to the town clerk for the transfer of his name as a voter from such ward to another ward in the municipality and upon receipt of such application the town clerk shall so transfer the name of such person provided he is satisfied that such person resides in such other ward and provided further that such transfer shall not entitle such person to vote at any election to fill a casual vacancy where such election takes place within two months of his application for such transfer.

(7) The voters' roll in force in a municipality at the commencement of this Ordinance shall subject to the provisions of section *nineteen* hereof be the voters' roll of such municipality until a new roll has been made amended and settled in terms of this Ordinance.

As amended by Section *three* of Ordinance No. 9 of 1937 and by Section *three* of Ordinance No. 9 of 1943 which provides in Sub-section (2) thereof;

†(2) Where the Administrator has fixed the months of April and May of any year as the months in which a town council shall frame its voters' roll in accordance with the provisions of the principal ordinance it shall be deemed that he has fixed the months of March and April of that year as the months in which such voters' roll shall be framed.

The following provisions for the suspension of compilation voters' rolls were added by section *four* of Ordinance No. 9 of 1943:—

#### **Suspension of Compilation of Voters' Rolls by Town Councils.**

4. (1) Notwithstanding anything to the contrary contained in paragraph (a) of sub-section (1) and paragraph (b) of sub-section (3) of section *fifteen* of the principal ordinance—

(a) it shall be lawful for any town council which must in the months of March and April, 1943, cause a list to be made of all persons qualified to be enrolled on the voters' roll under the provisions of the principal ordinance to postpone the making of such list up to the 29th February, 1944, and, if the Administrator consents, to further postpone the making of such list for periods of twelve months not extending beyond the 28th February, 1946;

(b) it shall be lawful for any town council which must in the months of March and April, 1944, cause the aforesaid list to be made, to postpone, if the Administrator consents, the making of such list up to the 28th February, 1945, and thereafter for a further period not extending beyond the 28th February, 1946;

\* Proviso with effect from 1st January, 1944, added by section *eleven* of Ordinance No. 18 of 1943.  
† With effect from the 1st March, 1943, *vide* section *three* (3) of Ordinance No. 9 of 1943.

(c) it shall be lawful for any town council which must in the months of March and April, 1945, cause the aforesaid list to be made, to postpone the making of such list, if the Administrator consents up to the 28th February, 1946.

(2) whenever a town council postpones the making of a list in terms of sub-section (1) of this section it shall during the months of March and April immediately following the date on which the period or periods for which the making of the list was postponed, expired, cause the list to be made and thereafter once every three years in the months of March and April.

(3) This section shall be deemed to have come into operation on the first day of March, 1943.

#### **Notices of Objection to List.**

16. The town clerk shall cause every list framed under the provisions of sub-section (1) (a) of section *fifteen* hereof to be deposited in the municipal offices at the principal post offices and at the magistrate's office for inspection by the public, and shall cause to be published in one or more newspapers circulating in the municipality a notice that all objections and claims to be enrolled will be heard and determined at some time and place to be therein stated; such time shall be not less than fourteen days after the first publication of the said notice.

#### **Appointment of Court to Determine Objections.**

17. The magistrate, or some advocate of the Supreme Court to be appointed by the Administrator, shall hear and determine all claims and objections, and may enrol the names of any voters which have been omitted from the voters' roll, and strike out the names of all persons not entitled to be enrolled; provided that no person's name shall be struck out until such person shall have had two clear days' notice of the investigation of his qualification, and shall be heard in regard thereto should be so desire, either personally or by an advocate, solicitor, or duly admitted law agent. The hearing and determining of such claims and objections may be adjourned from time to time and the decision on any such claim or objection may be brought on appeal by motion to the Supreme Court or any judge thereof if notice thereof be given by any interested person within two clear days after the declaration of such decision. The court or judge hearing such application may uphold or reverse the said decision and may make such order as to costs as to such court or judge may seem right. The remuneration of the advocate appointed by the Administrator as aforesaid shall be fixed by the Administrator and shall be a charge on the funds of the municipality.

#### **Roll to be in Force until New One Framed.**

18. Subject to the provisions of the next succeeding section the list when so settled and amended shall be the voters' roll for the municipality until the next roll shall in like manner be completed, and such roll shall be deemed and taken to be conclusive and the only proof of the right of every person enrolled therein to vote for the election of councillors.

#### **Provisions for Addition of Names to Voters' Roll.**

\*19. (1) Any person who is not on the voters' roll in force for the time being in a municipality, may at any time apply to the town clerk thereof, in the form prescribed in the Third Schedule hereof to be enrolled as a voter, and the council on being satisfied that such person is qualified under this Ordinance, or any amendment thereof, to be so enrolled shall cause the name of such person to be placed on the voters' roll; provided always that—

(i) if the council shall refuse the said application such decision of the council shall be subject to appeal as if it were a decision of the magistrate or advocate given under section *seventeen* of this Ordinance;

(ii) no person shall be enrolled under this section as a voter in respect of any ward upon an application made after the thirty-first day of August and before the date of the annual election in any year or in the case of by-elections after the publication of a notice of any by-election in such ward under section *thirty* of this Ordinance until such by-election shall have been held;

(iii) the non-enrolment of any voter upon an application made under this section shall not invalidate any election held after the date of such application.

(2) If any person making application hereunder is registered as a voter in some other municipality the town clerk shall, upon enrolling the name of such person as a voter, notify the town clerk of such other municipality and thereupon the latter shall delete the name of such voter from the voters' roll of that municipality. The expression "municipality" as used in this sub-section shall include a municipality under a village council.

\* See section *six* of Ordinance No. 18 of 1943, *re* suspended provisions.

(3) Any person making application to be placed on the voters' roll whose application has been rejected in terms of this Ordinance shall be duly notified forthwith of such rejection.

(4) Any person who wilfully makes any false statement on the form prescribed in the schedule mentioned in sub-section (1) hereof, shall be guilty of an offence and liable on conviction to a fine not exceeding fifteen pounds (£15) or in default of payment to imprisonment with or without hard labour for a period not exceeding one month.

**Voters' Roll Deposited for Inspection.**

20. Every voters' roll framed or amended under the provisions of this chapter shall be deposited at the municipal office for inspection by the public during office hours.

CHAPTER V.

ELECTION OF TOWN COUNCILLORS.

**Election of Councillors.**

21. (1) The council shall consist of three councillors for each ward elected in the manner hereinafter prescribed.

(2) Every councillor holding office at the commencement of this Ordinance may continue to hold office until the expiration of the period for which he was elected.

**Provision for Election of Councillors to represent "New" Wards.**

22. Should at any time the number of wards be increased under the provisions of this Ordinance, then upon such increase the number of councillors shall be increased by three for each ward by which the number of wards is increased, and the election of councillors for the new wards shall take place as soon as possible after such wards have been created and on a date to be fixed by the Administrator by proclamation in the *Provincial Gazette* in manner hereinafter provided for the election of councillors at an annual election.

**First Election of Councillors.**

23. The first election of councillors of any municipality to which the provisions of this Ordinance may hereafter become applicable shall take place in manner hereinafter prescribed on such date as may be notified by the Administrator by proclamation in the *Provincial Gazette* and three councillors shall be elected for each ward. One of such councillors (being the one who stands first on the poll) shall continue in office until the day of the third annual election held in accordance with the provisions of section *twenty-four* and no longer and one of such councillors (being the one who stands second on the poll) shall continue in office until the day of the second of such annual elections and no longer, and the remaining councillor (being the one who stands third on the poll) shall continue in office until the day of the first of such annual elections and no longer; and in case there are two or more candidates who have received an equal number of votes at the said poll, or in case there is no poll, the returning officer shall determine by lot which of such candidates shall be elected for a period terminating on the day of the first second and third of the said annual elections respectively.

**Annual Election of Councillors.**

24. After the first election of councillors as aforesaid and in the case of town councils presently elected under the Municipal Elections Ordinance, 1912, and amendments thereof there shall be an annual election of councillors which shall take place on the last Wednesday in the month of October of each and every year for the purpose of electing councillors to replace an equal number of councillors retiring from office on account of the expiration of their period of office and also for the purpose of filling up such casual vacancies as may be required to be filled up under the provisions of section *twenty-seven* of this Ordinance.

**Duration of Office of Councillors Elected at Annual Elections.**

25. (1) The councillors elected at every annual election to fill the vacancies caused by the retirement of councillors owing to the expiration of the period of office for which such last-named councillors were elected shall continue in office until the day of the third annual election next ensuing, and the councillor elected to fill a casual vacancy requiring to be filled up under section *twenty-seven* of this Ordinance whether such election shall take place at the annual election or not, shall hold office for the remainder of the term for which the councillor who has vacated office and whom he shall succeed would otherwise have remained in office.

(2) In any annual election at which councillors are to be elected to fill casual vacancies the vacancies caused by the retirement of councillors due to

filled by the candidates who receive the largest number of votes at the election. The other elected candidates shall be deemed to fill casual vacancies in order according to the number of votes cast for each, so that the candidate, who has of such other elected candidates, received the greatest number of votes shall be deemed to succeed the councillor who had he not vacated office would have remained longest in office. In case the matter cannot be determined as aforesaid owing to the equality in the votes of two or more candidates, or owing to there being no poll, it shall be determined by lot by the returning officer.

(3) For the purposes of sections *twenty-three, twenty-four and twenty-five* the date from which councillors hold office shall be the day fixed as the polling day, and if no polling takes place in respect of a particular vacancy then the day of nomination shall be the date of election.

#### **Vacancy.**

26. Whenever a vacancy is caused by a councillor retiring or in any other way vacating his seat, the voters in the ward represented by such councillor shall elect the councillor to fill the seat so vacated.

#### **Casual Vacancies.**

27. (1) Save as is provided in paragraphs (a) and (c) of section *thirty-two* hereof, 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, provided that where any councillor shall have vacated his seat prior to the expiration of his period of office and such vacancy is not filled under the provisions of this Ordinance prior to the date when such councillor would in the ordinary course have retired, such vacancy shall be deemed not to be a casual vacancy, but to be a vacancy caused by the retirement of such councillor due to the expiration of the period 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 such vacancy shall be elected in the manner provided for the election of candidates at the annual election; but if such vacancy shall occur within three months of the ensuing annual election then the vacancy shall not be filled up at a special election but shall remain until the holding of the annual election of councillors under this Ordinance; provided always that such vacancies do not exceed three in number, in which case they shall be filled up at a special election held for the purpose, and provided further that no casual vacancy shall be filled at any annual election unless such casual vacancy has occurred prior to the first publication of the notice mentioned in section *thirty* of this Ordinance.

#### **Notification of Vacation of Office by Councillor.**

28. The occurrence of any casual vacancy in the council which is not required to be declared by the mayor at a meeting of the council under the provisions of section *seven* of this Ordinance shall be notified without delay by the town clerk by a notice signed by him and affixed in a conspicuous position in the municipal offices and any casual vacancy shall be deemed to occur at the date when such vacancy is declared by the mayor under the said section or notified by the town clerk under this section.

#### **Returning Officer.**

29. The town clerk, or such other person as the Administrator may appoint shall be the returning officer at all municipal elections and all such elections shall be held before such returning officer; provided always that no candidate for office at such election shall be capable of acting as returning officer thereat. In the case of a returning officer appointed by the Administrator the Administrator shall fix the fee to be paid to such officer by the council.

#### **Notice of Nomination.**

\*30. The town clerk, or such other person as the Administrator may appoint shall not less than thirty days prior to any election of a councillor or councillors publish a notice of such election in one or more newspapers circulating in the municipality and in such notice shall specify a day not being less than then or more than twenty-one days from the date of giving of such notice as the day of nomination and shall specify the particular ward or wards for which the election is to be held and shall require all candidates at such election to be nominated in manner hereinafter mentioned.

#### **Manner of Nomination and Notice of Election.**

†31. (a) No person shall be a candidate at any election or be qualified to be elected a councillor for any ward of a municipality unless he shall have received a requisition signed by at least twenty-five enrolled voters for such ward and

\* As amended by section *four* of Ordinance No. 9 of 1937.

† As amended by section *five* of Ordinance No. 9 of 1937.

shall have delivered or caused to be delivered such requisition with his acceptance thereof given under his own hand or that of his duly qualified agent to the person calling for nominations not later than twelve o'clock noon of the day appointed for receiving the same provided that a person who is a councillor other than a retiring councillor on the nomination day shall not be qualified to be nominated as a candidate at the election for which the nominations are called.

(b) If the number of candidates for any ward who are nominated as aforesaid does not exceed the number of councillors to be elected for such ward such candidates shall be deemed and taken to be elected on the day of nomination provided that where any unopposed candidates are to take the place of retiring councillors they shall not become councillors before the date on which such retiring councillors cease to be members of the council.

(c) In the event of the number of nominations for any ward exceeding the number of councillors to be elected for such ward the town clerk or other person appointed to be returning officer as aforesaid shall forthwith cause a notice to be published in one or more newspapers circulating in the municipality stating the names of the candidates nominated, the day upon which a poll will be taken for the election not being less than ten days or more than twenty-one days from the date of such notice nor less than thirty days from the date of the notice calling for nominations, the number of vacancies to be filled, and the places where the poll will be taken. And the poll shall take place accordingly and shall commence at 8 o'clock a.m. and close at 9 o'clock p.m.

(d) If a poll has to be taken every candidate who is nominated as aforesaid for election as a councillor of a municipality with a European population of not less than ten thousand shall on such nomination deposit with the town clerk the sum of £25 or give such security for that sum as the town clerk may deem sufficient.

Should such candidate receive less than one-fifth of the number of votes received by the successful candidate at the election the sum deposited or the security given by or on behalf of the unsuccessful candidate shall be forfeited or enforced (as the case may be) and the money thereby received or recovered shall be paid to the municipality otherwise it shall be returned to him.

Should any candidate fail to make the required deposit or furnish sufficient security he shall cease to be a candidate, and the returning officer shall remove his name from the list of candidates, and should the number of candidates thereby be reduced to a number equal to or less than the number to be elected the provisions of section *thirty-five* shall *mutatis mutandis* apply.

#### Casual Vacancies in certain Circumstances.

32. (a) If there shall be no nominations received, or if the number of candidates deemed to be elected in terms of sub-section (b) of section *thirty-one* hereof shall be less than the number of vacancies to be filled, the vacancies or the remaining vacancies shall be deemed to be casual vacancies which shall be filled in accordance with the provisions of section *twenty-seven* hereof.

(b) if after further nominations have been called for to fill such casual vacancies no nominations are received or fewer nominations are received than the number of vacancies to be filled it shall be lawful for the Administrator to appoint any duly qualified person or persons to be a member or members of the council in order to make up the number of members required.

(c) if, after the polling day has been fixed for an election in any ward, any duly nominated candidate thereat dies before the poll has commenced, the returning officer shall, upon being satisfied of the fact of the death, withdraw so far as it concerns that ward, the notice fixing the polling day, and all proceedings relating to the said election shall be commenced afresh in precisely the same manner as if a casual vacancy had occurred; provided that no fresh nomination shall be necessary in the case of a candidate who was duly nominated at the time when the said notice was withdrawn.

## CHAPTER VI.

### THE POLLING.

#### Election Arrangements.

33. For the purpose of any election there shall be one polling station at some convenient place within each ward, or if such wards have been divided into polling districts there shall be one polling station within each polling district. Notice shall be given by the returning officer in one or more newspapers circulating in the district and also by affixing it to the municipal notice board or the public door of the town office of the places where the polling stations shall be.

For all elections the returning officer shall provide such compartments desks ballot boxes ballot papers stamping instruments copies of register of voters

and other things; appoint presiding officers and polling officers, and do such other acts and things and make such arrangements to facilitate the taking of the poll as he may deem advisable for effectually conducting the election; and everything done by the returning officer shall be at the expense of the council and shall be paid out of the funds of the municipality.

**Presiding Officer.**

34. The presiding officer and other officers at the polling station shall keep order thereat shall regulate the number of votes to be admitted at a time and shall exclude all other persons except the returning officer the clerks the candidates the agents of the candidates and the constables on duty.

**In case Candidate Desires to Retire from Contest.**

35. If after a poll has been appointed at any election any candidate nominated for election shall be desirous of retiring from the candidature he may not later than twelve noon on the fourth day before the day of polling sign and deliver a notice of his retirement to the returning officer who on receipt of such notice shall if the number of candidates is by such retirement reduced to the number of persons to be elected at such election declare the remaining candidates to be on that day duly elected and if the said number is not so reduced shall omit the name of the person so retiring from the list of candidates and such person shall not be capable of being elected at such election. If the number of candidates is by such retirement reduced below the number of persons to be elected the provisions of section *thirty-two* of this Ordinance shall *mutatis mutandis* apply.

**Candidates' Agents.**

36. Every candidate may, if he think fit, appoint by writing under his hand a person to represent him at the polling station to see that the votes are fairly taken and may also appoint in writing not more than two agents to represent him at the counting of the votes by the returning officer.

**Inquiries as to Right to Vote.**

37. No inquiry shall be made at any election as to the right of any person to vote except that the polling officer shall put to every voter the following questions:

(1) Are you the person whose name appears as A.B. on the voters' roll of voters in this ward?

(2) Have you already voted at this election in the capacity in which you now claim to vote?

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

**Penalty for False Answers.**

38. Any person who shall wilfully make a false answer to any of these questions shall be liable to a penalty not exceeding fifty pounds to be recovered in the court of the magistrate, or in default of payment to imprisonment for a term not exceeding three months.

**Voter required to Vote without delay at Polling Stations.**

39. Every voter coming to record his vote shall vote without undue delay and any voter who delays unduly in recording his vote may unless he shall forthwith proceed to vote upon being thereunto required by the presiding officer be compelled to hand to the presiding officer any ballot paper which he may have received and be removed from the polling station upon the instruction of the presiding officer. Such voter shall not be entitled to vote at the election, but such ballot paper shall be treated as a spoilt paper under section *forty-two* hereof and the presiding officer shall endorse upon such ballot paper the words "Returned under section *thirty-nine* of the Municipal Elections Ordinance.

**Number of Votes to be given by Voter.**

40. Every voter shall have as many votes as there are candidates to be elected for the ward in which he is enrolled as a voter, and such voter shall be obliged to record a vote for at least one of such candidates. Should any voter record on his ballot paper more than one vote for any candidate such votes shall be deemed and counted as one vote only.

**Manner of Voting.**

41. The voting at all elections held under the provisions of this Ordinance shall be by ballot which shall be conducted in substance and as nearly as is material as follows:—

(a) The presiding officer or any polling officer at the polling station in each ward or polling district as the case may be shall ascertain that the



person coming to vote is a voter enrolled upon the voters' roll for that ward or polling district 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 such counterfoil and having stamped the same with a perforated stamp provided for that purpose shall hand it to the voter. And every ballot paper shall be in the form set forth in the Fourth Schedule to this Ordinance with such printed instructions as the council may approve;

(b) when the voter has received such ballot paper on which shall be printed in alphabetical order the names of all the duly nominated candidates at such election he shall take the same to the compartment and desk provided for that purpose and signify for whom he desires to vote by secretly placing a cross opposite the name of every candidate whom he wishes elected not exceeding the number to be elected at such election. He shall then fold the ballot paper so that the perforated stamp 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;

(c) should the voter either sign his name on the ballot paper or make any mark or write any word by which he can become identified such ballot paper shall be considered blank and not taken into account.

#### **Spoiled Ballot Papers.**

42. If a voter inadvertently spoils a ballot paper he may return it to the presiding officer who shall if satisfied of such inadvertence give him another paper and retain the spoiled paper and the spoiled paper shall be immediately cancelled and endorsed with the words "Returned under section *forty-two* of the Municipal Elections Ordinance" and the fact of such cancellation shall be noted upon the counterfoil.

#### **Voters incapacitated by Blindness of other Physical Cause.**

43. Any presiding officer on the application of any voter who is unable to read or who is incapacitated by blindness of other physical cause from voting in manner prescribed by this Ordinance shall before such agents of the candidate as may be present cause the vote or votes of such voter to be marked on a ballot paper or papers in manner directed by such voter and the ballot paper or papers to be placed in the ballot box and the name and number on the voters' roll of every voter whose vote is marked in pursuance of the terms of this section and the reason why it is so marked shall be entered on a list in this Ordinance called the "list of votes marked by the presiding officer".

#### **Tendered Ballot Papers.**

44. If a person representing himself to be a particular voter applies for a ballot paper after another person has voted as such voter, the applicant shall upon duly answering the questions permitted by this Ordinance to be asked of voters at the time of polling be entitled to mark a ballot paper in the same manner as any other voter, but the ballot paper (hereinafter called a tendered ballot paper) shall not be put in the ballot box, but shall be given to the presiding officer appointed for that purpose and endorsed by him with the name of the voter and his number on the voters' roll, and set aside in a separate packet, and shall not be counted by the returning officer and the name of the voter and his number on the roll shall be entered in a list in this Ordinance called the "tendered votes list".

#### **Sealing up Ballot Boxes, etc.**

45. Every presiding officer as soon as practicable after the close of the poll shall, before such agents of the candidates as shall be present, make up into separate packets sealed with his own seal and the seals of such agents of the candidates as desire to affix their seals—

- (1) each ballot box entrusted to him unopened but with the key attached;
- (2) the unused and spoiled ballot papers placed together;
- (3) the tendered ballot papers;
- (4) the marked copies of the voters' roll and the counterfoils of the ballot papers;

(5) the tendered votes list and the list of votes marked by him as presiding officer and a statement of the number of votes whose votes are so marked; and shall deliver such packets to the returning officer.

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

#### **Declaration of Poll.**

46. Upon receipt of the aforesaid packets from such presiding officer by the returning officer the latter shall take charge of them and shall in the presence

only of such candidates and such agents of the candidates as may be in attendance (not exceeding two agents of each candidate) open the ballot boxes and ascertain the result of the poll by counting the votes given to each candidate and shall forthwith declare the candidate or candidates who are elected under the provisions of this Ordinance according to the vacancies to be filled up. In the event of the number of votes being found to be equal for any two or more candidates all of whom cannot be declared elected to fill an ordinary or casual vacancy in the council as the case may be the returning officer shall by lot immediately determine the election. The decision of the returning officer shall be final subject to reversal on petition to or action in the Supreme Court praying that the election be set aside.

**What Ballot Papers shall be rejected.**

47. The returning officer shall reject and not count any ballot papers which—
- (a) do not bear the official mark;
  - (b) give votes to more candidates than the voter is entitled to vote for;
  - (c) bear any writing or mark by which a voter can be identified otherwise than is in this Ordinance prescribed;
  - (d) are unmarked or void for uncertainty;
  - (e) are returned under section *thirty-nine* of this Ordinance.

**Marking of Rejected Ballot Papers.**

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

**Sealing up of Papers by Returning Officer.**

49. The returning officer shall immediately after the declaration of the poll enclose in separate packets the counted and rejected ballot papers. He shall not open any sealed packet of tendered ballot papers or marked copy of the voters' roll and counterfoils but shall proceed, before such agents of the candidates as are present to reseal after examination each of the sealed packets received by him from the presiding officers. All the packets aforesaid together with a certificate stating the names of the councillors declared to be elected, shall be enclosed together in one sealed packet and delivered to the town clerk who shall safely keep such sealed packet for six months after the expiration whereof the said packet and all papers contained therein shall be destroyed in the presence of two councillors.

**Sealed Papers to remain unopened.**

50. No such sealed packet as aforesaid shall be opened during the said period of six months unless by order of the Supreme Court or any judge thereof; and if any person shall contrary to the provisions hereof wilfully break the seal or open any such packet he shall upon conviction be liable to a penalty of fifty pounds and to imprisonment with or without hard labour for a period not exceeding three months, and on failure to pay the fine to a further period of imprisonment for three months.

**The Administrator may make Regulations and issue Instructions.**

51. The Administrator shall have power from time to time to issue instructions and make regulations for the purpose of more effectually carrying out the provisions of this Ordinance as to the proceedings for election by ballot provided that such instructions and regulations are not inconsistent with its terms.

**Immaterial Mistakes not to Affect the Validity of Elections.**

52. No election shall be declared invalid by reason of any mistake or non-compliance with the terms of this Ordinance if it appears to the court having cognizance of the question that the election was conducted in accordance with the principals laid down in this Ordinance and that such mistake or non-compliance did not effect the result of the election.

## CHAPTER VII.

### ELECTORAL EXPENDITURE.

**Electoral Expense.**

53. "Electoral expense" in this and the next succeeding chapter includes all moneys expended or expenses incurred by or on behalf of any candidate at or in connexion with any election.

**Expense Allowed.**

54. No electoral expense shall be allowed except in respect of the following matters:—

- (1) Purchasing electoral rolls;

- (2) printing advertising publishing issuing and distributing addresses by the candidate, posters and other printed matter requesting the support of voters, and notices of meetings;
- (3) stationery messages postages and telegrams;
- (4) one committee room for each polling station;
- (5) public meetings and halls therefor;
- (6) scrutineers;
- (7) one election agent for each candidate or for any number of joint candidates;
- (8) one polling agent at each polling station and no more;
- (9) one clerk and one messenger for conducting business in each committee room and the hire of one telephone and one typewriting machine for each committee room;
- (10) the reasonable and actual personal expenses of the candidate which shall not exceed fifty pounds;
- (11) the hire of vehicles.

#### **Amount of Expenditure allowed.**

55. No electoral expenses shall be allowed in respect of any election in excess of the following rates:—

- (1) For each candidate one hundred pounds and a further two pounds for every one hundred enrolled voters over and above five hundred;
- (2) where there are two or more joint candidates at an election;
  - (a) for any one of such candidates the full amount mentioned in sub-section (1);
  - (b) for each of the remaining joint candidates one-fourth of the amount mentioned in sub-section (1).

Where the same election agent is appointed by or on behalf of two or more candidates at an election or where two or more candidates by themselves or any agent or agents hire or use the same committee room for such election or employ or use the services of the same clerks messengers or polling agents at such election or publish a joint address or joint circular or notice at such election those candidates shall be deemed for the purposes of this enactment to be joint candidates at such election; provided that—

- (i) the employment and use of the same committee room clerk messenger or polling agent if accidental or casual or of a trivial and unimportant character shall not be deemed of itself to constitute persons joint candidates;
- (ii) nothing in this enactment shall prevent candidates from ceasing to be joint candidates;
- (iii) where any excess of expense above the maximum allowed for one of two or more joint candidates has arisen owing to his having ceased to be a joint candidate or to his having become a joint candidate after having begun to conduct his election as a separate candidate and such ceasing or beginning was in good faith and such excess is not more than under the circumstances is reasonable and the total expenses of such candidate do not exceed the maximum amount allowed for a separate candidate such excess shall be deemed to have arisen from a reasonable cause within the meaning of the provisions respecting the allowance by the court of an exception from the provisions of this Ordinance which would otherwise make an act an illegal practice and the candidate and his election agent may be relieved accordingly from the consequences of having incurred such excess of expenses.

#### **Payments to Candidates.**

56. All moneys provided by any person other than the candidate for any electoral expense shall be paid directly to the candidate personally.

#### **Sending in and Payment of Claims for Election Expenses.**

57. (1) Every payment made by an election agent whether by himself or a sub-agent in respect of any expenses incurred on account of or in respect of the conduct or management of an election shall except where less than forty shillings in all in any one account be vouched for by a bill stating the particulars and by a receipt.

(2) Every claim against a candidate at an election or his election agent in respect of any expenses incurred on account of or in respect of the conduct or management of such election which is not sent in to the election agent within the time limited by this Ordinance shall be barred and shall not be paid.

(3) Except as by this Ordinance permitted the time limited by this Ordinance for sending in claims shall be twenty-one days after the day on which the candidates returned are declared elected.

(4) All expenses incurred by or on behalf of a candidate at an election which are incurred on account of or in respect of the conduct or management of such election shall be paid within the time limited by this Ordinance and not otherwise.

(5) Except as by this Ordinance permitted the time limited by this Ordinance for the payment of such expenses as aforesaid shall be thirty days after the day on which the candidates returned are declared elected.

(6) If the election agent in the case of any claim sent to him within the time limited by this Ordinance disputes it or refuses or fails to pay it within the said period of thirty days such claim shall be deemed to be a disputed claim.

(7) The claimant may if he thinks fit bring an action for a disputed claim in any competent court and any sum paid by the candidate or his agent in pursuance of the judgment or order of such court shall be deemed to be paid within the time limited by this Ordinance and to be an exception from the provisions of this Ordinance requiring claims to be paid by the election agent; provided that for the purposes of this sub-section "competent court" shall include "magistrate's court".

(8) On cause shown to the satisfaction of the court such court on application by the claimant or by the candidate or his election agent may by order give leave for the payment by a candidate or his election agent of a disputed claim or of a claim for any such expenses as aforesaid although sent in after the time in this section mentioned for sending in claims or although the same was sent in to the candidate and not to the election agent.

(9) Any sum specified in the order of leave may be paid by the candidate or his election agent and when paid in pursuance of such leave shall be deemed to be paid within the time limited by this Ordinance.

#### **Returns.**

58. Within forty days after the result of any election has been declared every candidate at such election and in the case of joint candidates such candidates jointly shall complete in the form shown in the Fifth Schedule hereto before a justice of the peace or a commissioner of oaths and file with the returning officer a true return of his or their electoral expenses showing—

(a) all moneys provided for electoral expenses under section *fifty-six*;

(b) all payments made supported by bills and receipts hereinafter referred to as vouchers;

(c) all disputed and unpaid claims.

#### **Publication and Inspection of Returns.**

59. The returning officer at an election shall as regards all returns and vouchers filed pursuant to this chapter—

(1) forthwith publish in the *Provincial Gazette* particulars of the total amount of the electoral expenses of the candidate arranged under the headings of the paragraphs in section *fifty-four*;

(2) keep the returns and vouchers open for public inspection without fee at reasonable hours for three months after filing;

(3) during the same period supply copies of or extracts from the return and vouchers at sixpence per folio of seventy-two words.

#### **Failure to File Return of Election Expenses.**

60. (1) A candidate declared to be elected under the provisions of this Ordinance who fails to file within the period prescribed in section *fifty-eight* hereof the return required by the said section shall, after the expiry of that period, not sit or vote as a town councillor until he has filed the said return by leave of the Supreme Court on petition presented under section *sixty-two* of this Ordinance.

(2) The returning officer shall prosecute in the magistrate's court any unsuccessful candidate who has failed to file the said return, and the said candidate shall be liable to a fine of fifty pounds and in default of payment to imprisonment for a period of one month, unless the magistrate is satisfied that his failure to file the said return has arisen from illness or inadvertence or any reasonable cause of a like nature and not from any want of good faith.

#### **Candidate to Prove that he has not Incurred Illegal Expense.**

61. If on petition to the Supreme Court against the return of a candidate it shall be proved that the return required in section *fifty-eight* has not been duly rendered or if there shall be proved any electoral expense on any matter other than the matters allowed by section *fifty-four* or in excess of the rates allowed by section *fifty-five* the election shall be declared void unless the candidate shall satisfy the court that such expense was neither directly nor indirectly incurred by him or by some one as his agent or representative or that he had neither directly nor indirectly sanctioned countenanced nor approved of the same in any way.

**Failure to File Return.**

62. Notwithstanding anything contained in the last preceding section if any candidate prove to the Supreme Court that his failure to file a return or voucher as required by section *fifty-eight* has arisen from illness or inadvertence or any reasonable cause of a like nature and not from any want of good faith; or that any error omission or false statement in the return or vouchers filed has similarly arisen the court may permit the filing of the return or vouchers or of a new return or fresh vouchers or the amendment of the return or vouchers filed and may exonerate the candidate from all liability in the matter.

**Election Agent.**

63. (1) Not later than twelve noon of the day of nomination at an election a person shall be named by or on behalf of each candidate as his agent for such election in this Ordinance referred to as the election agent.

(2) A candidate may name himself as election agent and thereupon shall so far as circumstances admit be subject to the provisions of this Ordinance both as a candidate and an election agent and any reference in this Ordinance to an election agent shall be construed to refer likewise to the candidate acting in his capacity of election agent.

(3) Not later than twelve noon of the day of nomination the full name and address of the election agent of each candidate shall be declared in writing by the candidate or some other person on his behalf to the returning officer and the returning officer shall forthwith give notice of the name and address of every election agent so declared by publication in a newspaper circulating in the municipality and if no such declaration in writing shall be so made as aforesaid the candidate shall be deemed and taken to be his own election agent and may make no other appointment of an election agent for the purposes of this Ordinance.

(4) One election agent only shall be appointed for each candidate or any number of joint candidates but the appointment may be revoked and in the event of such revocation the candidate shall be deemed and taken to be his own election agent unless such revocation takes place on or before the day of nomination or not less than three clear days before the day appointed for the taking of the poll in which case the candidate may forthwith upon such revocation declare in writing to be delivered in no case less than three clear days before the day of polling to the returning officer that he appoints another election agent whose name and address shall forthwith be notified by the returning officer by publication in a newspaper circulating in the municipality.

(5) The election agent of a candidate shall appoint every polling agent scrutineer clerk and messenger employed for payment on behalf of the candidate at an election and hire every committee room hired on behalf of such candidate.

**CHAPTER VIII.****CORRUPT AND ILLEGAL PRACTICES.****Definition of Corrupt Practices.**

64. "Corrupt practice" means any of the following offences: treating undue influence bribery and personation and aiding abetting counselling and procuring the commission of any of such offences.

**Treating Defined.**

65. (1) Every person who corruptly by himself or by any other person either before during or after an election directly or indirectly gives or provides or pays wholly or in part the expense of giving or providing any meat drink entertainment lodging or provision to or for any person for the purpose of corruptly influencing that person or any other person to give or refrain from giving his vote at the election or on account of such person or any other person having voted or refrained from voting or being about to vote or refrain from voting at such election; and

(2) Every voter who corruptly accepts or takes any such meat drink entertainment lodging or provision;  
shall be deemed guilty of treating.

**Undue Influence Defined.**

66. (1) Every person who directly or indirectly by himself or by any other person on his behalf makes use of or threatens to make use of any force violence or restraint or inflicts or threatens to inflict by himself or by any other person any temporal or spiritual injury damage harm or loss upon or against or does or threatens to do any detriment to any person in order to

induce or compel such person to vote or refrain from voting or on account of such person having voted or refrained from voting at any election; and

(2) Every person who by abduction duress or any fraudulent device or contrivance impedes or prevents the free exercise of the franchise by any voter or thereby compels induces or prevails upon any voter either to give or to refrain from giving his vote at any election;

shall be deemed guilty of undue influence.

#### **Bribery Defined.**

67. (1) Every person who directly or indirectly himself or by his agent gives lends or agrees to give or lend or offers promises or promises to procure or to endeavour to procure any money or valuable consideration to or for any voter or to or for any person on behalf of any voter or to or for any other person in order to induce any voter to vote or refrain from voting or corruptly does any such act as aforesaid on account of such voter having voted or refrained from voting at any election;

(2) Every person who directly or indirectly himself or by his agent gives lends or agrees to give or lend or offers promises or promises to procure or to endeavour to procure any money or valuable consideration to or for any voter or to or for any person on behalf of any voter or to or for any other person for acting or joining in any procession before or during any election;

(3) Every person who directly or indirectly himself or by his agent gives or procures or agrees to give or procure or offers promises or promises to procure or to endeavour to procure any office place or employment or any profit advancement or enrichment to or for any voter or to or for any person on behalf of any voter or to or for any other person in order to induce such voter to vote or refrain from voting or corruptly does any such act as aforesaid on account of any voter having voted or refrained from voting at any election;

(4) Every person who directly or indirectly himself or by his agent makes any such gift loan offer promise procurement or agreement as aforesaid to or for any person in order to induce such person to procure or endeavour to procure the return of any person to serve as a councillor or the vote of any voter at any election;

(5) Every person who upon or in consequence of any such gift loan offer promise procurement or agreement procures or engages promises or endeavours to procure the return of any person to serve as a councillor or the vote of any voter at any election;

(6) Every person who advances or pays or causes to be paid any money to or to the use of any other person with the intent that such money or any part thereof shall be expended in bribery at any election or who knowingly pays or causes to be paid any money to any person in discharge or repayment of any money wholly or in part expended in bribery at any election; provided always that this enactment shall not extend or be construed to any money paid or agreed to be paid for or on account of any lawful expenses bona fide incurred at or concerning any election;

(7) Every voter who before or during any election directly or indirectly himself or by his agent receives agrees or contracts for any money gift loan or valuable consideration office place or employment for himself or for any other person for voting or agreeing to vote or for refraining or agreeing to refrain from voting at any election;

(8) Every person who after any election directly or indirectly himself or by his agent receives any money or valuable consideration on account of any person having voted or refrained from voting or having induced any other person to vote or refrain from voting at any election;

(9) Every person who either directly or indirectly himself or by his agent corruptly conveys or transfers any property or pays any money to any person for the purpose of enabling him to be qualified as a councillor or registered as a voter thereby to influence his vote at any future election and every candidate or other person who either directly or indirectly pays any money on behalf of any voter for the purpose of inducing him to vote or refrain from voting and every person on whose behalf and with whose privacy any such conveyance transfer or payment as in this section is mentioned is made; shall be deemed guilty of bribery; and

(10) Every candidate who himself or by his agent convenes or holds any meeting of voters in any house licensed for the sale of liquors under the Liquor Licensing Ordinance 1902 and any amendment thereof shall be deemed guilty of bribery; provided that nothing in this sub-section shall apply to any part of such premises which is ordinarily let or used for the purpose of chambers or offices shops or other business premises or the holding of public meetings if such part has a separate entrance from and no direct communication with any part of the premises from which any intoxicating liquor or refreshment is sold or supplied.

**Personation Defined.**

68. Every person who at any election applies for a ballot paper in the name of some other person whether that name is that of a person living or dead or of a fictitious person or who having voted once at any such election applies at the same election for a ballot paper in his own name shall be guilty of personation.

**Punishment of Candidate personally or by his Election Agent guilty of a Corrupt Practice.**

69. If upon the trial of an election petition under Chapter X hereof the court finds that any corrupt practice has been committed in reference to such election by or with the knowledge and consent of any agent of a candidate at such election the election of such candidate shall if he has been elected be null and void; and if such offence has been committed by or with the knowledge and consent of the candidate or his election agent then in addition to such election being declared null and void such candidate shall not be capable for a period of five years of being elected as a councillor for any municipality or of holding any judicial appointment or appointment as justice of the peace.

**Punishment of a Person Guilty of Corrupt Practices.**

70. (1) A person who commits any corrupt practice other than personation or aiding abetting counselling or procuring the offence of personation shall on conviction be liable to imprisonment with or without hard labour for a term not exceeding two years or to a fine not exceeding five hundred pounds.

(2) A person who commits the offence of personation or of aiding abetting counselling or procuring the commission of that offence shall on conviction be liable to imprisonment with or without hard labour for a period not exceeding two years.

(3) A person who is convicted of any corrupt practice shall in addition to any punishment hereinbefore provided be incapable during the period of five years from the date of his conviction of being enrolled as a voter or elected as a councillor for any municipality or of holding any judicial appointment or appointment as justice of the peace and if elected a councillor his seat shall be vacated from the time of such conviction.

**ILLEGAL PRACTICES.****Voting by Prohibited Persons and Publishing of False Statements of Withdrawal to be illegal.**

71. (1) If any person votes or induces or procures any person to vote at any election knowing that he or such person is prohibited by this or any other Ordinance from voting or is not qualified or has ceased to be qualified to vote at such election he shall be guilty of an illegal practice.

(2) Any person who before or during an election knowingly publishes a false statement of the withdrawal of a candidate at such election for the purpose of promoting or procuring the election of another candidate shall be guilty of an illegal practice.

**Illegal Practice.**

72. Every person who at any time after the publication of the notice referred to in section *thirty* of this Ordinance and before the close of the poll referred to in section *thirty-one* publishes or exposes or causes to be published or exposed to public view any document or writing or printed matter containing any untrue statement defamatory of any candidate and calculated to influence the vote of any voter shall be guilty of an illegal practice.

**Punishment on Conviction of Illegal Practice.**

73. A person guilty of an illegal practice whether under the last preceding sections or under the provisions hereinafter contained shall on summary conviction be liable to a fine not exceeding seventy-five pounds or to be imprisoned for any period not exceeding six months with or without hard labour and shall in addition be incapable during a period of two years from the date of his conviction of being registered as a voter or voting at any election held for the electorate in which the illegal practice has been committed.

**No Expenses Allowed in Excess of Maximum Fixed in this Ordinance.**

74. (1) Subject to such exception as may be allowed in pursuance of this Ordinance no sum shall be paid and no expense shall be incurred by a candidate at an election or his election agent or by any other person whether before during or after an election on account of or in respect of the conduct or management of such election in excess of any maximum amount in that behalf specified in this Ordinance.

(2) Subject to such exception as may have been allowed in pursuance of this Ordinance no claim in respect of any expenses incurred on account of or in

respect of the conduct or management of an election shall be paid in contravention of the provisions of section *fifty-seven* of this Ordinance. Any candidate or election agent or any other person who knowingly acts in contravention of this section shall be guilty of an illegal practice; provided always that anything to the contrary notwithstanding in section *seventy-six* of this Ordinance when on an election petition the court finds that it has been proved by a candidate that any payment made by an election agent in contravention of this sub-section was made without the sanction or connivance of such candidate the election of such candidate shall not be void nor shall he be subject to any incapacity under this Ordinance by reason only of such payment being made in contravention of this sub-section.

**No Person shall be Employed for Payment save as Authorised in this Ordinance.**

75. (1) No person shall for the purpose of promoting or procuring the election of a candidate at any election be engaged or employed for payment or promise of payment for any purpose or in any capacity whatever except for any purposes or capacities mentioned in this Ordinance or except so far as payment is authorized by this Ordinance.

(2) Subject to such exception as may be allowed in pursuance of this Ordinance if any person is engaged or employed in contravention of this section either before during or after an election the person engaging or employing him shall be guilty of an illegal practice and the person so engaged or employed shall also be guilty of an illegal practice if he knew that he was engaged or employed contrary to law.

**Penalty for Connivance of Candidate at Illegal Practices.**

76. If upon the trial of an election petition the court finds that any illegal practice is proved to have been committed in reference to such election by or with the knowledge and consent of any candidate at such election or his election agent the election of such candidate shall if he has been elected be null and void and he shall not be capable of being elected a councillor for any municipality for a period of three years from the date of such finding or of holding any judicial appointment or the appointment of justice of the peace and he shall further be subject to the same incapacities if he has been convicted by any competent court of an illegal practice.

ILLEGAL PAYMENT AND HIRING.

**Persons Providing Money Contrary to this Ordinance Guilty of Illegal Practice.**

77. Every person who knowingly provides money for any payment which is contrary to the provisions of this Ordinance or for replacing any money expended in any such payment except where the same is allowed in pursuance of this Ordinance to be an exception shall be guilty of illegal payment.

**Corrupt Withdrawal from a Candidature.**

78. Every person who corruptly induces or procures any other person to withdraw from being a candidate at an election in consideration of any payment or promise of payment and every person who withdraws in pursuance of such inducement or procurement shall be guilty of illegal payment.

**Name and Address of Printer on Placards.**

79. Every bill placard poster pamphlet or other printed matter having reference to an election shall bear upon the face thereof the name and address of the printer and publisher thereof and every person who prints publishes or posts or causes to be printed published or posted any such printed matter as aforesaid which fails to bear upon the face thereof the name and address of the printer and publisher shall if he is the candidate or the agent of the candidate be guilty of an illegal practice and if he is not the candidate or the agent of a candidate shall be guilty of illegal payment.

**Use of Committee Room in House for Sale of Intoxicating Liquor or Refreshment to be Illegal Hiring.**

80. It shall not be lawful to use

(a) any premises on which the sale by retail of any intoxicating liquor is authorized by a licence;

(b) any premises where any intoxicating liquor is sold or is supplied to members of a club society or association; or any part of any such premises as a committee room for the purpose of promoting or procuring the election of a candidate at an election.

Every person who—

hires or uses any such premises or any part thereof for a committee room; or

lets such premises or part knowing that it was intended to use the same as a committee room; shall be guilty of illegal hiring.



Provided that nothing in this section shall apply to any part of such premises which is ordinarily let or used for the purpose of chambers offices or shops or other business premises or the holding of public meetings if such part has a separate entrance from and no communication with any part of the premises from which any intoxicating liquor or refreshment is sold or supplied as aforesaid.

#### **Punishment of Illegal Payment or Hiring.**

81. Without prejudice to the provisions hereinbefore contained as to the offence of bribery

(1) a person guilty of the offence of illegal payment or hiring shall on summary conviction be liable to a fine not exceeding fifty pounds; and in default of payment to imprisonment with or without hard labour for a period not exceeding three months;

(2) a candidate or an agent of a candidate who is personally guilty of an offence of illegal payment or hiring shall be guilty of an illegal practice.

#### **Actions for Liquor or Refreshment Supplied at Elections not to be Maintainable.**

82. No action or suit shall be maintainable by any licensed publican or any owner or keeper of any shop booth tent or other place of entertainment against any candidate or any agent of any such candidate for any liquor food or refreshment of any kind whether for man or beast supplied upon the credit of any such candidate or agent during the progress of any election under this Ordinance.

#### **EXCUSES AND EXCEPTIONS FOR CORRUPT OR ILLEGAL PRACTICES OR ILLEGAL PAYMENT AND HIRING.**

#### **Report Exonerating Candidate in certain Cases of Corrupt and Illegal Practice by Agents.**

83. When upon the trial of an election petition the court finds that a candidate at such election has been guilty by his agents of the offences of treating and undue influence and illegal practice or of any of such offences in reference to such election and further that the candidate has proved:

(a) that no corrupt or illegal practice was committed at such election by the candidate himself and the offences mentioned in the said finding were committed contrary to his orders and without his sanction or connivance;

(b) that such candidate took all reasonable means for preventing the commission of corrupt and illegal practices at such election;

(c) that the offences mentioned in the finding were of a trivial unimportant and limited character; and

(d) that in all other respects the election was free from any corrupt or illegal practice on the part of the candidate;

then the election of such candidate shall not by reason of the offences mentioned in the report be void nor shall the candidate be subject to any incapacity under this Ordinance.

#### **Power of Court to Except Innocent Act from being Illegal Practice, etc.**

84. When it appears to the court that any act or omission of a candidate at any election, or of his agent, or of any other person, which would, by reason of being a payment, engagement or contract in contravention of this Ordinance, or of otherwise being in contravention of any of the provisions of this Ordinance, be, but for this section, an illegal practice, payment or hiring, arose from inadvertence or from accidental miscalculation or from some other reasonable cause of a like nature, and in any case did not arise from any want of good faith and under the circumstances it seems to the court to be just that the candidate and the agent and other person or any of them should not be subject to any of the consequences under this Ordinance of such act or omission the court may make an order allowing such act or omission to be an exception from the provisions of this Ordinance which would otherwise make the same an illegal practice payment or hiring and thereupon such candidate agent or person shall not be subject to any of the consequences under this Ordinance of the said act or omission.

#### **DISQUALIFICATION OF ELECTORS.**

#### **Prohibition of Persons Guilty of Corrupt or Illegal Practices, etc., from Voting.**

85. Every person guilty of a corrupt or illegal practice or of illegal payment or hiring at an election is prohibited from voting at such election and if any such person votes his vote shall be void.

#### **Prohibition of Disqualified Persons from Voting.**

86. Every person who in consequence of conviction or of the report of the court has become under this Ordinance or any other law for the time being

in force relating to corrupt or illegal practices incapable of voting at any election is prohibited from voting at such election and his vote shall be void if any such person vote.

#### LIMITATION OF TIME FOR PROSECUTIONS.

##### Limitation of Time for Prosecution of Offence.

87. (1) A proceeding against a person in respect of the offence of a corrupt or illegal practice or any other offence against this chapter shall be commenced within six months after the offence was committed or if it was committed in reference to an election with respect to which a petition is tried by the court shall be commenced within six months after the offence was committed or within three months after the report of the court hearing an election petition is made whichever period last expires so that it be commenced within two years after the offence was committed.

(2) For the purpose of this section the issue of a summons warrant writ or other process shall where the service or execution of the same on or against the alleged offender is prevented by the absconding or concealment or act of the alleged offender be deemed to be the commencement of a proceeding but save as aforesaid the service or execution of the same on or against the alleged offender and not the issue thereof shall be deemed to be the commencement of the proceeding.

##### Persons Charged with Corrupt Practice may be found Guilty of Illegal Practice, etc.

88. Any person charged with a corrupt practice may if the circumstances warrant such finding be found guilty of an illegal practice and any person charged with an illegal practice may be found guilty of that offence notwithstanding that the act constituting the offence amounted to a corrupt practice and a person charged with illegal payment or hiring may be found guilty of that offence notwithstanding that the act constituting the offence amounted to a corrupt or illegal practice.

### CHAPTER IX.

#### OTHER OFFENCES.

##### Persons Ordered by Presiding Officer to Leave Polling Station.

89. Every person who shall be ordered by the presiding officer to leave the polling station under the provisions of section *thirty-nine* and shall refuse to do so shall be guilty of an offence and liable to a fine not exceeding ten pounds or in default of payment to imprisonment with or without hard labour for a period not exceeding one month.

##### Obstructing Elections.

90. Every person who interrupts obstructs or disturbs the proceedings at an election shall be guilty of an offence and liable to the penalties in the last preceding section mentioned.

##### Penalty for Neglect by Returning Officer, etc.

91. (1) Every returning officer who after having accepted office as such wilfully neglects or refuses to perform any of the duties which by the provisions of this Ordinance he is required to perform shall for every such offence be liable to a penalty not exceeding two hundred pounds,

(2) Every justice of the peace presiding officer or other officer or person who wilfully neglects or refuses to perform any of the duties which by the provisions of this Ordinance he is required to perform shall for every such offence be liable to a penalty not exceeding fifty pounds.

##### Tampering with Ballot Papers and Ballot Boxes.

92. Every presiding officer or other person who places or is privy to placing in a ballot box a ballot paper which has not been lawfully handed to and marked by a voter or forges or counterfeits or fraudulently defaces or destroys any ballot paper or the official mark thereon shall be guilty of an offence and shall be liable on conviction to be imprisoned for any period not exceeding two years with or without hard labour. Proof that a greater number of ballot papers is found in a ballot box or is returned by a presiding officer as having been received at a polling place than the number of voters who voted at such polling place shall be prima facie evidence that the presiding officer at such polling place was guilty of an offence against this section.

##### Wilfully Making or Procuring a False Claim.

93. Every person shall be liable to a penalty not exceeding one hundred pounds or to be imprisoned for any period not exceeding twelve months with or without hard labour who:

(1) wilfully or knowingly makes delivers or sends to any officer appointed to revise the roll of voters any claim which is false in any material particular; or

(2) wilfully causes or procures or is in any wise concerned in the making delivering or sending of any such claim.

**Penalty for Unfastening Fold of Ballot Paper.**

94. (1) Every returning officer presiding officer polling clerk scrutineer or other person who knowingly and wilfully unfastens the fold upon a ballot paper within which the number of a voter is written unless he is by the lawful command of some competent court or other tribunal required so to do; and

(2) every returning officer presiding officer polling clerk or scrutineer who attempts to ascertain or discover or directly or indirectly aids in ascertaining or discovering the person for whom any vote is given except in the case of a person voting openly or who having in the exercise of his office obtained knowledge of the person for whom any voter has voted discloses such knowledge unless in answer to some questions put in the course of proceedings before some competent court or other tribunal; and

(3) every returning officer presiding officer polling clerk or scrutineer who places upon any ballot paper any mark or writing not authorized by this Ordinance; shall be guilty of an offence and on conviction thereof shall be liable to imprisonment for any period not exceeding twelve months with or without hard labour.

**Penalty for Breaking Seal of or Opening Parcel.**

95. Except as authorized by this Ordinance every person who knowingly and wilfully breaks the seal of or opens any such sealed parcel as is herein before mentioned unless he is by the lawful command of some competent court or other tribunal required so to do or to produce some portion of the contents of such parcel shall be deemed guilty of an offence and on conviction shall be liable to imprisonment for any period not exceeding twelve months with or without hard labour.

CHAPTER X.

HEARING OF ELECTION PETITIONS.

**Election Petitions may be Presented to Supreme Court.**

96. A petition complaining of an undue election of a councillor for any ward of a municipality by reason of want of qualification disqualification corrupt or illegal practice irregularity or otherwise may be presented to the Supreme Court by:

(1) an enrolled voter in such municipality;

(2) some person claiming to have had a right to be elected at such election;

or

(3) some person alleging himself to have been a candidate at such election.

Such petition is herein after referred to as an election petition.

**Provisions as to such Petitions.**

97. With respect to the presentation of an election petition under this Ordinance the following provisions shall apply:

(1) the petition shall be signed by the petitioner or all the petitioners if more than one;

(2) the petition shall be presented within sixty days after the result of the election has been declared by the returning officer;

(3) presentation of a petition shall be made by filing it with the Registrar of the Supreme Court;

(4) at the time of the presentation of the petition or within seven days afterwards security for the payment of all costs charges and expenses that may become payable by the petitioner:

(a) to any person summoned as a witness on his behalf; or

(b) to the members whose election or qualification is complained of (who is herein after referred to as the respondent); shall be given by or on behalf of the petitioner;

(5) the security shall be to the amount of three hundred pounds; it shall be given either by recognizance to be entered into by any number of sureties not exceeding four or by a deposit of money with the Registrar of the Supreme Court or partly in one way and partly in the other.

**Service of Petition on Respondent.**

98. Notice in writing of the presentation of a petition under this Ordinance and of the nature of the proposed security accompanied by a copy of the petition shall within ten days after the presentation of the petition be served by the petitioner on the respondent either personally or by leaving the same

at his usual or last known dwelling-house or place of business and it will be lawful for the respondent where the security is given wholly or partially by recognisance by notice in writing to be served upon the petitioner in manner aforesaid within twenty-one days from the date of the service on him of such to object to such recognisance on the ground that the sureties or any of them are insufficient or that a surety is dead or that he cannot be found or that a person named in the recognisance has not duly acknowledged the same.

**How Objections to Security to be dealt with.**

99. Any objection made to security given shall be heard and decided by the Supreme Court of this Province or by a judge thereof. If any objection to the security is allowed it shall be lawful for the petitioner within a further time to be fixed by the court or judge not exceeding ten days to remove such objection by a deposit of such sum of money as may be deemed proper by the said court or judge to make the security sufficient.

If an objection made the security is decided to be insufficient and such objection is not removed in manner herein before mentioned no further proceedings shall be had on the petition; otherwise on the expiration of the time limited for making objections or on the sufficiency of the security being established after objection made the petition shall be deemed to be at issue.

**Registrar of Court to Make List of Petitions.**

100. The Registrar of the Supreme Court shall as soon as may be make out a list of petitions under this Ordinance presented to the court and which are at issue placing them in the order in which they were presented and shall keep at his office a copy of such list herein after referred to as the election list open to the inspection of any person making application for inspection thereof. Such petitions shall be tried in the order in which they stand in such list unless the court shall otherwise order.

TRIAL OF A PETITION.

**Provisions for the Trial of Election Petitions.**

101. With respect to the trial of election petitions under this Ordinance the following provisions shall apply:

- (1) every election petition shall be tried with open doors;
- (2) the trial of election petitions may take place in any civil term upon any day prescribed by any rule or order of court; provided that the court to which it has been presented may upon the application of any of the petitioners or respondents fix any day in or out of term for such trial;
- (3) notice of the time and place at which an election petition will be tried shall be given by the Registrar of the Supreme Court to the parties concerned not less than fourteen days before the day on which the trial is to be held;
- (4) the court may adjourn the trial from time to time and from place to place;
- (5) where on the trial of an election petition praying the court to determine that some other person than the respondent is entitled to be declared duly elected in place of the respondent it is proved that any person who voted for the respondent was bribed or treated or subjected to undue influence by any one on behalf of the respondent or that such person was guilty of personation or of an illegal practice payment or hiring every vote given for the respondent by such person shall be deducted from the total number of votes given for the respondent at the election.

(6) at the conclusion of the trial of any election petition the court shall determine whether the respondent was duly elected or whether any and if so what person other than the respondent was or is entitled to be declared duly elected; if the court shall determine that the respondent was duly elected such election shall be and remain as valid as if no petition had been presented against the same. If the court shall determine that the respondent was not duly elected but that some other person was or is entitled to be declared duly elected the respondent shall forthwith be deemed to have vacated his seat; and the court shall forthwith certify such determination to the Administrator who shall thereupon by proclamation in the *Provincial Gazette* declare such other person duly elected. If the court shall determine that the respondent was not duly elected and that no other person was or is entitled to be declared duly elected the seat of the respondent shall forthwith be deemed to be vacant and the court shall forthwith certify such determination to the Administrator who shall thereupon command that a new election shall take place for the purpose of filling up such vacancy and like proceedings shall take place in regard to such new election as are provided in regard to annual elections under this Ordinance.

**When Seat Claimed for Another Person than the Respondent.**

102. On the trial of a petition under this Ordinance complaining of an undue election or return and claiming the seat for some person the respondent may give evidence to prove that the election of such person was undue in the same manner as if he had presented a petition complaining of such election.

## PROCEEDINGS.

**Form of Petition.**

103. An election petition under this Ordinance shall be in such form and state such matters as may be prescribed by rule of court.

**Conditions when two or more Joint Candidates are Respondents.**

104. Two or more joint candidates may be made respondents to the same petition and such petition shall be filed as one petition and be tried at the same time but for all the purposes of this Ordinance such petition shall be deemed to be a separate petition against each respondent.

**Petitions Relating to same Election to be heard together.**

105. When under this Ordinance more petitions than one are presented relating to the same election or return all such petitions shall in the list of petitions be bracketed together and shall be dealt with as one petition but such petition shall stand in the election list in the place where the last of such petitions would have stood if it had been the only petition presented unless the court or a judge thereof shall otherwise direct.

## WITNESSES.

**Summoning Witnesses.**

106. Witnesses shall be summoned and sworn in the same manner as in a trial before the Supreme Court and shall be subject to the same penalties for perjury.

**Witness not Summoned may be Examined.**

107. On the trial of an election petition under this Ordinance the court may examine any witness or any person in court although such witness or person is not called or examined by any party to the petition. After the examination of a witness as aforesaid by the court such witness may be cross-examined by or on behalf of the petitioner and respondent or either of them.

**Witness not Entitled to Refuse to Answer because he may Criminate himself but Protected From Consequences of such Answer.**

108. No person who is called as a witness at the trial of any election petition shall be excused from answering any question relating to any corrupt or illegal practice at or connected with any election then forming the subject of inquiry on the ground that the answer thereto may criminate or tend to criminate himself; provided that where any witness shall answer every question relating to any matters aforesaid which he shall be required by the court to answer and the answer to which may criminate or tend to criminate him he shall be entitled to receive from the court under the hand of the registrar a certificate stating that such witness was upon his examination required by the said court to answer questions or a question relating to the matters aforesaid the answers or answer to which criminated or tended to criminate him and had answered all such questions or question; and if any indictment or action be at any time thereafter pending in any court against such witness for any offence under this Ordinance committed by him previous to the time of his giving his evidence and at or in relation to which the witness may have been so examined the court shall on production and proof of such certificate stay the proceedings in such indictment or action; provided that no statement made by any person in answer to any question put to him by or before such court shall except in cases of indictment for perjury be admissible in evidence against him in any proceedings civil or criminal.

**Witnesses' Expenses.**

109. The reasonable expenses incurred by any person appearing to give evidence at the trial of an election petition under this Ordinance according to the scale usually allowed to witnesses on the trial of civil actions in the Supreme Court in this Province may be allowed to such person and such expenses shall be deemed to be costs of the petition.

## WITHDRAWAL AND ABATEMENT OF ELECTION PETITIONS.

**Petition not to be Withdrawn without Leave.**

110. An election petition under this Ordinance shall not be withdrawn without the leave of the court and after such notice has been given as such court may direct.

**Substitution of Petitioner may be asked for.**

111. On the hearing of the application for withdrawal any person who might have been a petitioner in respect of such election to which the petition relates may apply to the court to be substituted as a petitioner for the petitioner so desirous of withdrawing the petition.

**Court may Order Substitution.**

112. The court may if it thinks fit substitute as a petitioner any such applicant as aforesaid and may further if the proposed withdrawal is in the opinion of the court induced by any corrupt bargain or consideration by order direct that the security given on behalf of the original petitioner shall remain as security for any costs that may be incurred by the substituted petitioner and that to the extent of the sum named in such security the original petitioner shall be liable to pay the costs of the substituted petitioner.

**When Fresh Security Required.**

113. If no such order is made with respect to the security given on behalf of the original petitioner security to the same amount as would be required in the case of a new petition and subject to the like conditions shall be given on behalf of the substituted petitioner before he proceeds with his petition and within fourteen days after the order of substitution.

**Substituted Petitioners.**

114. Subject as aforesaid a substituted petitioner shall stand in the same position as nearly as may be and be subject to the same liabilities as the original petitioner.

**Costs of Withdrawn Petitions.**

115. If a petition is withdrawn the petitioner shall be liable to pay the costs of the respondent.

**Consent of Co-Petitioners Required for Withdrawal.**

116. When there are more petitioners than one no application to withdraw a petition shall be made without the consent of all the petitioners.

**Abatement by Death.**

117. An election petition under this Ordinance shall be abated by the death of the sole petitioner or petitioners but such abatement shall not affect the liability of the petitioner or petitioners to the payment of costs previously incurred.

**Consequence of Abatement.**

118. On the abatement of a petition any person who might have been a petitioner in respect of the election to which the petition relates may within twenty-one days after such abatement apply to the Supreme Court or any judge thereof to be substituted as a petitioner and such court or judge may thereupon if it or he thinks fit substitute as a petitioner any such applicant who is desirous of being substituted and on whose behalf security to the same amount is given as is required in the case of a new petition.

**Respondent who has given Notice that he will not Oppose cannot Appear.**

119. A respondent who has given notice that he does not intend to oppose the petition shall not be allowed to appear or to act as a party against such petition in any proceedings thereon and shall not sit or vote in the council to which he had been elected pending the result of the trial of the petition and the court shall in all cases in which such notice has been given report the same to the mayor.

**COSTS.****Court to Decide as to Costs.**

120. All costs charges and expenses of and incidental to the presentation of a petition under this Ordinance and to the proceedings consequent thereon shall be defrayed by the parties to the petition in such manner and in such proportions as the court before which the same is tried or to be tried may determine regard being had to the disallowance of any costs charges or expenses which may in the opinion of the court have been caused by vexatious conduct unfounded allegations or unfounded objections on the part either of the petitioner or the respondent and regard being had to the discouragement of any needless expense by throwing the burden of defraying the same on the parties by whom it has been caused whether such parties are or are not on the whole successful.

**Taxation of Costs.**

121. The costs may be taxed and recovered in the same manner as the costs of an ordinary action at law in the Supreme Court in this Province.

**Neglect to Pay Witnesses.**

122. If any petitioner in an election petition presented under this Ordinance shall neglect or refuse for the space of one month after demand to pay to any person summoned as a witness on his behalf or to the respondent any sum certified to be due to him for his costs charges or expenses and if such neglect or refusal be proved to the satisfaction of the court to which such petition was presented every person who has entered into a recognizance relating to such petition under the provisions of this Ordinance shall be held to have made default in his said recognizance and the registrar of the said court shall thereupon certify such recognizance to be forfeited and execution may thereupon by leave of the said court be sued out thereon at the suit of any such witness or respondent from time to time as occasion may require.

**CHAPTER XI.****VOTERS' LIST AND ELECTIONS OF VILLAGE COUNCILS.****Framing of Voters' List.**

123. (1) Within one month after the date of a proclamation under the Local Government Ordinance establishing a village council the magistrate or some other persons appointed by the Administrator shall frame a list of all persons who are qualified in accordance with section *eight* of this Ordinance to vote at the election of the village council and who are not disqualified under section *ten* or section *eleven*.

The said first voters' list may be amended by the magistrate or other person appointed and such list shall be open for inspection at the office of the magistrate or other person for fourteen days before the day of the election of members of the council, provided that no amendment of the said list shall be made within a period of seven days before the day of the election.

(2) The cost of framing such list shall be at the charge of the council.

(3) Notwithstanding the repeal of section *one hundred and twenty-one* of the Local Government Ordinance the voters' list framed thereunder shall be and remain the voters' list until a new list is drawn up hereunder.

(4) Every voters' list subsequent to the lists referred to in sub-sections (1) and (3) hereof shall be drawn up by the council before the fifteenth day of August in each and every year.

(5) The council shall immediately after drawing up the said list by notice posted outside the office of the council notify that a copy of the said list is open for inspection at the said office, and a copy of such list shall be open to inspection at the said office, during office hours, for a period of fourteen days. The said notice shall also intimate that on a certain date, being not less than seven days after the expiration of the said fourteen days, and at an hour and place to be therein set forth, claims to be inserted on, or objections to the said list will be heard and determined.

(6) The chairman and two other members of the council shall, on the day notified, in open session hear all such claims and objections and determine thereon, and may adjourn from time to time as may be necessary.

(7) The revised list certified by the chairman shall be and remain the voters' list in force and shall not be added to or altered until a new list is drawn up hereunder.

**Fixing the Number of Members.**

\*124. (1) The Administrator may fix and from time to time increase or decrease the number of councillors of any village council and every such increase or decrease shall be notified by proclamation in the *Provincial Gazette*, provided that the number of councillors for any village council shall not be less than three nor more than twelve, and further shall be a number which is a multiple of three.

(2) Whenever the Administrator shall increase or decrease the number of councillors of any village council, he may, in consultation with the council concerned, order all such steps to be taken as he may deem necessary or desirable in connection with the retirement or duration of office of councillors so that the intent and purpose of this Ordinance may have effect.

**Present Councillors.**

125. Every councillor holding office at the commencement of this Ordinance may continue to hold office until the expiration of the period for which he was elected.

**Date of Annual Election of Village Councils and Notice of Meeting of Election.**

126. (1) Elections of village councils shall be held during the month of October in each year in the manner herein after provided.

\* As amended by section *seven* of Ordinance No. 9 of 1937.

\* (2) The town clerk or such other person as may be appointed by the Administrator (herein after referred to as the presiding officer) shall, subject to the provisions of sub-section (1), fix the day for holding the election, and not less than fourteen days before the day so fixed, he shall publish a notice in a newspaper circulating within the municipality, and cause such notice to be affixed at a place approved by the presiding officer and at such other conspicuous places within the municipality as the presiding officer may deem convenient.

(3) Such notice shall summon a public meeting of the persons enrolled upon the voters' list of the municipality to nominate and elect councillors.

(4) Every such notice shall specify the hour and place within the municipality at which the meeting will be held and the meeting shall be held at the hour and place so specified. The said notice shall also specify the duration of the said meeting.

#### **Presiding Officer to Preside.**

127. At the time and place specified in the notice the presiding officer shall attend and shall preside at the meeting held.

#### **Nomination of Candidates for Election.**

128. Any person enrolled upon the voters' list of the municipality and present at such meeting may propose for election as a village councillor any person qualified to be elected, and every such proposal shall, before it is submitted to the meeting, be seconded by some other person enrolled upon the voters' list of the municipality and present at such meeting. The person so proposed and seconded shall be deemed to be duly nominated as soon as he shall personally at the meeting or in writing by letter or telegram have signified his acceptance of nomination. If the number of persons duly nominated be no more than the number of councillors to be elected, the presiding officer shall then and there declare the persons so nominated to be elected, but if the number of persons duly nominated be more than the number of councillors to be elected, the presiding officer shall at a time and place and on a date to be then and there fixed by him, such date being not later than fourteen days from the date of the said meeting, then and there proceed to take a poll of the enrolled voters in manner provided in the next succeeding section (1).

#### **Mode of Holding Election.**

129. (1) The presiding officer shall read out to the meeting the names of the persons duly nominated. Each voter present at the meeting shall in turn come to the desk where the presiding officer is sitting, and on satisfying the presiding officer that his name is on the voters' list for the municipality and that he has not already voted at the election then being held, shall record on a slip of paper duly perforated or officially marked by the presiding officer and handed to the voter by him the names of the persons nominated for whom he wishes to vote not exceeding the number of persons to be elected. The voter shall then deposit a slip of paper in a box provided for the purpose. The meeting shall be closed at the expiry of six hours from the hour specified as the time of meeting, unless there shall be any enrolled voter present who shall not have recorded his vote; in which case the presiding officer shall have power to prolong the meeting until every such voter shall have recorded his vote; provided that where the aggregate number of voters on any voters' list is less than two hundred and fifty the number of hours allowed for the duration of the meeting as aforesaid may in the discretion of the presiding officer be reduced to not less than four hours if due notification of such reduction was given in the notice referred to in section *one hundred and twenty-six* hereof.

(2) The presiding officer shall then open the box and proceed to count the votes so recorded and shall declare the persons who have received the greatest number of votes to be duly elected in the order of the number of votes recorded for them. In the event of the number of votes recorded for any two or more candidates being found to be equal and in the event of the equality affecting the result of the election, the presiding officer shall by lot determine which shall be declared duly elected. The presiding officer shall then enclose the voting papers in a sealed packet and retain possession thereof, and shall after a period of ~~three~~ months destroy its contents. The presiding officer shall not at any time disclose the manner in which any voter has recorded his vote.

(3) All expenditure necessarily incurred by the presiding officer in connexion with the nominations for and the holding of any election shall be borne by the council.

#### **Provisions in Case of Election Irregularly Held.**

130. (1) Any voter may lodge an objection against the election of any one or more persons whom the presiding officer has declared duly elected under the last two preceding sections. Such objection shall be lodged with the presiding

\* As amended by section *eight* of Ordinance No. 9 of 1937.



officer within seven days after the declaration of election, and shall state in writing the grounds of the objection, and the presiding officer on receiving such objection shall thereupon make such inquiries as he may think fit and shall in his discretion allow or disallow such objection.

(2) If any election shall be set aside by the presiding officer in consequence of his allowing any such objection, or if by reason of any failure or neglect or any other cause whatever any meeting for the election of councillors shall not be held, then and in every case the presiding officer shall, as soon as possible after any such event or failure shall have been notified to him call meetings of electors for the purposes of nominating and electing a councillor or councillors as in manner herein before provided.

#### **Casual Vacancies.**

131. In the event of a vacancy occurring as a result of any of the circumstances specified in section *seven* the chairman of the council shall notify any such vacancy to the town clerk\*, who shall, except in the circumstances mentioned in the first proviso to this section, forthwith summon a meeting of enrolled voters for the municipality for the purpose of filling up such vacancy in the manner herein before provided; provided that if any such vacancy shall occur within three months prior to the first day of November in the year in which the councillors go out of office such vacancy shall not be filled but shall continue until the next general election is held; provided further that if there shall be more than three vacancies they shall be filled up at a special election held for the purpose and conducted in manner in this Ordinance provided.

#### **Provisions in Case of Failure to Elect Members.**

132. If from any cause there shall not be elected the requisite number of councillors at any election held under this chapter the Administrator may appoint any person or persons to be a councillor or councillors in order to make up the number required for the council and may prescribe the period during which persons so appointed shall hold office as councillors.

#### **First Election.**

133. The first election under this Ordinance of village councils constituted under sub-section (2) of section *one hundred and sixteen* of the Local Government Ordinance shall take place on or between such days as may be fixed by the Administrator by proclamation in the *Provincial Gazette*, and on the issue of such proclamation, the presiding officer shall fix a day in accordance with the terms of such proclamation for holding the election, and shall issue such notice as is prescribed by section *one hundred and twenty-six*.

#### **Periods of Office of Councillors Elected at First Election.**

134. At any such first election one-third of the councillors elected, being those who stand highest on the poll, shall continue in office for a period of three years, and the one-third of the councillors elected who stand next highest on the poll, shall continue in office for a period of two years, and the remaining third of the councillors elected shall continue in office for a period of one year; provided that in any case in which the councillors who have received an equal number of votes and cannot on that account be placed in the first, second or third divisions of councillors aforesaid, or if there be no poll, it shall be determined by lot which councillors shall continue in office respectively for three or two years or one year. The presiding officer in declaring the result of the election shall further declare the respective periods for which the councillors are elected.

#### **Administrator may Fix Periods of Office.**

135. In the case of such first election the Administrator may, notwithstanding anything in the preceding section contained, prescribe the periods for which each division of councillors elected at such first election shall continue in office.

#### **Annual Election of Councillors.**

136. After any such first election of councillors and in the case of every village council there shall be an annual election of councillors which shall take place in the month of October of each and every year for the purpose of electing councillors to replace an equal number of councillors retiring from office on account of the expiry of their period of office and also for the purpose of filling up such casual vacancies as may be required to be filled up under the provisions of section *one hundred and thirty-one*; provided that in the case of village councils constituted under sub-section (2) of section *one hundred and sixteen* of the Local Government Ordinance the Administrator may, by proclamation in the *Provincial Gazette*, declare that the election of

\* As amended by section *nine* of Ordinance No. 9 of 1937.

councillors subsequent to the first election shall not take place until the month of October of the year subsequent to the year in which such first election is held.

**Duration of Councillors' Term of Office.**

137. (1) The councillors elected at every annual election to fill the vacancies caused by councillors retiring owing to the expiry of their period of office shall hold office for a period of three years, and a councillor elected to fill a casual vacancy requiring to be filled up under section *one hundred and thirty-one*, whether or not such election shall take place at the annual election, shall hold office for the remainder of the period for which the councillor who has vacated office and whom he succeeds would have otherwise continued in office.

(2) In any annual election at which councillors are to be elected to fill casual vacancies, the vacancies caused by the retirement of councillors due to the expiry of their periods of office shall be deemed to be filled by the candidates who receive the largest number of votes at the election. The other elected candidates shall be deemed to fill casual vacancies in the order and according to the number of votes recorded for each, so that the candidate, who has of such other elected candidates received the greatest number of votes shall be deemed to succeed the councillor, who if he had not vacated office would have continued longest in office. In case the matter cannot be determined as aforesaid owing to the equality in the votes recorded for two or more candidates or owing to there being no poll, it shall be determined by lot by the presiding officer.

CHAPTER XII.

MISCELLANEOUS.

**Validation of Proclamations Issued, Proceedings Taken, etc., under Laws Repealed.**

138. Notwithstanding the repeal of the Municipal Elections Ordinance 1912 and amendments thereof and of sections *one hundred and nineteen to one hundred and thirty-five* (inclusive) of the Local Government Ordinance all acts done, proclamations issued, or proceedings taken respectively under those Ordinances before the commencement of this Ordinance shall be deemed to have been done issued or taken under the provisions of this Ordinance.

**Validation of Irregularities in Connection with Elections.**

139. If through any error accident or omission anything required by law to be done in the preparation of any voters' roll or in the conduct of any election is omitted to be done or is not done in the manner or within the time fixed by law the Administrator may order all such steps to be taken as may be necessary to rectify any such error accident or omission or may validate anything which may have been irregularly done in matter or form so that the intent and purpose of this Ordinance may have effect.

**Title and Date of Coming into Operation.**

140. This Ordinance may be cited for all purposes as the Municipal Elections Ordinance 1927 and shall come into operation on the first day of January 1928.

FIRST SCHEDULE.

SECTION ONE.

REPEAL OF LAWS.

The Municipal Elections Ordinance (No. 8) of 1912;  
 The Municipal Elections Amendment Ordinance (No. 2) of 1914;  
 The Municipal Elections Further Amendment (No. 2) Ordinance (No. 10) of 1914;  
 The Municipal Elections Amendment Ordinance (No. 4) of 1918;  
 The Municipal Elections (Annual Elections, 1917) Amendment Ordinance (No. 9) of 1917;  
 The Municipal Elections Amendment Ordinance (No. 13) of 1925;  
 Sections *one hundred and nineteen to one hundred and thirty-five* (inclusive) of the Local Government Ordinance.

SECOND SCHEDULE.

SECTION FIFTEEN (5) (a).

I \_\_\_\_\_ of \_\_\_\_\_ hereby declare as follows:—

(1) That I am the person whose name appears in the Voters' Roll for Polling District No. \_\_\_\_\_ of the Ward \_\_\_\_\_ of the \_\_\_\_\_ municipality under No. \_\_\_\_\_

(2) That I have not voted at this election at any other polling station.

As witness my signature \_\_\_\_\_  
 Before me,

Place \_\_\_\_\_ Presiding Officer.  
 Date \_\_\_\_\_

THIRD SCHEDULE.  
SECTION NINETEEN.

To the Town Clerk,  
Municipality of \_\_\_\_\_  
I hereby apply to have my name placed on the voters' roll of the Municipality of \_\_\_\_\_  
under the provisions of section *nineteen* of the Municipal Elections Ordinance, 1927.  
†(1) My full name is (maiden name in case of married women) \_\_\_\_\_  
(State whether Mr., Mrs., or Miss.)  
(2) I am a white person and a British subject of full age.  
†(3) I reside at present at: (a) \_\_\_\_\_  
(b) P.O. Box \_\_\_\_\_  
(4) My occupation is that of a \_\_\_\_\_  
\*(5) I have resided within this Municipality for a period of six months immediately prior to this date.  
\*(6) I am the owner of rateable property within the Municipality.  
\*(7) I am not registered as a voter in this or in any other municipality.  
\*(8) I am registered at present as a voter in the Municipality of \_\_\_\_\_  
Witness \_\_\_\_\_  
\_\_\_\_\_  
*Signature of Applicant.*  
Address \_\_\_\_\_  
Date \_\_\_\_\_

\* Delete whichever is inapplicable.  
† As amended by section *ten* of Ordinance No. 9 of 1937.

FOURTH SCHEDULE.  
SECTION FORTY-ONE.

FORM OF FRONT OF BALLOT PAPER.

Counterfoil No. \_\_\_\_\_

NOTE.—The counterfoil is to have a number to correspond with that on the back of the ballot paper.

1.	BROWN. (John Brown, of _____ Street, * _____ Merchant.)
2.	JONES. (Henry Jones, of _____ Street, * _____ Attorney.)
3.	ROBINSON. (George Robinson, of _____ Street, * _____ Grocer.)
4.	SMITH. (Frederick Smith, of _____ Street, * _____ Broker.)

FORM OF BACK OF BALLOT PAPER.

No. \_\_\_\_\_  
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 town.

FIFTH SCHEDULE.  
SECTION FIFTY-EIGHT.

FORM OF RETURN OF ELECTORAL EXPENSES.

I, A.B., candidate at the election for the Council of the Municipality of \_\_\_\_\_  
on the \_\_\_\_\_ day of \_\_\_\_\_ make the  
following return respecting my electoral expenses at the election:—

Receipts. £ s. d.

Received of J.K. \_\_\_\_\_  
(Here set out the name and description of every person, club, society, or  
association from whom any money was received in respect of expenses.)

*Expenditure.*

Paid G.H., my election agent. ....  
Paid to I.J., clerk, for \_\_\_\_\_ days' services. ....  
Paid to K.L., scrutineer, at \_\_\_\_\_ .....  
Paid to I.J., clerk, for \_\_\_\_\_ day's services. ....  
(The names and descriptions of the agent and every clerk and scrutineer  
and the sum paid to each must be set out separately.)  
Paid to the following persons in respect of goods supplied or work and labour  
done:  
(The name and description and the nature of the goods supplied or the work  
and labour done by each must be set out separately.)  
Paid hire of rooms for holding public meetings. ....  
Paid hire of rooms for holding committee meetings. ....  
Paid for miscellaneous matters. ....  
(The name and description of each person to whom any sum is paid, and  
the reason for which it was paid to him, must be set out separately.)

In addition to the above, I am aware of the following disputed and unpaid claims, viz. :—

By T.U., for \_\_\_\_\_ £ s. d.

(Here set out the name and description of each person whose claim is disputed, and the amount of the claim and the goods work or other matter on the ground of which the claim is based.)

Except as appears from the above, I have not and to the best of my knowledge and belief, no person has made on my behalf any payment, or given, promised, or offered any reward, office, employment, or valuable consideration, or incurred any liability on account of or in respect of the conduct or management of the said election.

I have paid the sum of \_\_\_\_\_ pounds altogether and no more for the purpose of the election and except as specified above no money security or equivalent for money has to my knowledge or belief been paid, advanced, given, or deposited by any one to any other person for the purpose of defraying any expenses incurred on my behalf on account of or in respect of the conduct or management of the said election.

I do solemnly swear (or affirm) that to the best of my knowledge and belief the above is a full and true return of my expenses as candidate at the said election.

Signed and sworn (or affirmed) this \_\_\_\_\_ day of \_\_\_\_\_ (Signature of Candidate, C.D.) before me \_\_\_\_\_

(E.F., Justice of the Peace.)  
(Commissioner of Oaths.)

**No. 5 of 1927.—Second Appropriation (Part 1927-1928).**

**No. 6 of 1927.—Transvaal Hospital Nurses' Pension Amendment.**

*Section 1.—Amends section three of Ordinance No. 13 of 1919.*

*Section 2.—Adds new provisions for the refund of contributions and is embodied in the revised print of the Principal Ordinance, No. 13 of 1919—section twelve thereof.*

*Section 3.—Short Title.*

**No. 7 of 1927.—Motor Vehicle Amendment.—Repealed by Ordinance No. 17 of 1931.**

**No. 8 of 1927.—Shop Hours Amendment.—Repealed by section 5 of Ordinance No. 19 of 1928.**

**AN ORDINANCE**

**No. 9 of 1927.**

[Assented to 28th June, 1927.]

**To provide for the Control of Horse Racing and Betting.**

(English copy signed by Governor-General.)

*N.B.*—So much of this Ordinance as refers to Dog Racing was repealed by the Dog Racing Ordinance, 1940.

BE IT ENACTED by the Provincial Council of Transvaal as follows:—

**Definitions.**

\*1. In this Ordinance, unless inconsistent with the context:—

“Administrator” shall mean the officer appointed under section sixty-eight of the South Africa Act, 1909, and any amendment thereof acting on the authority of the Executive Committee;

“bet” shall mean the staking of any money or valuable thing by or on behalf of or expressly or impliedly promised, undertaken or agreed to be paid or given to any person as or for the consideration for any assurance undertaking, promise, or agreement, express or implied, to pay or give thereafter any money or valuable thing on any event or contingency of or relating to any race, foot race, cycle race, motor-cycle race, motor race, fight, game, sport, or exercise, or on any event or contingency whatsoever or as for the consideration for securing the paying of any money or valuable thing on any such event or contingency whatsoever as aforesaid;

“bookmaker” shall mean any person duly licensed as such in terms of the Licensing of Bookmakers and Taxation Ordinance, No. 26 of 1925, and shall include any person who carries on the business of or acts as a bookmaker or who gains or endeavours to gain his livelihood wholly or partly by betting or making wagers;

“race” shall mean any horse, pony, galloway, dog-race, or any other race whatsoever;

“race card” shall mean the official programme issued for sale and for the use of the public on a race day by a person licensed to hold race meetings;

“racecourse” shall mean any land licensed under this Ordinance for the holding of race meetings or any place where licensed dog or other racing takes place;

“race day” shall mean in the area comprised in a radius of eighteen miles from the General Post Office, Johannesburg, any Saturday or any public holiday from the hour of ten o'clock in the forenoon till six o'clock

\* As amended by section one of Ordinance No. 11 of 1939.

in the afternoon, and any other day on which a race meeting may legally be held unless such days be Christmas Day, Good Friday, or Ascension Day. In any part of the Province 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;

"street" includes (1) any enclosed or unenclosed land (not being a house or racecourse or licensed whippet course); (2) any thoroughfare and any highway, road, lane, footway or passage whether a thoroughfare or not, on any public or private land;

"totalizator" shall mean the instrument, machine, or contrivance commonly known as a "totalizator" 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;

"turf commission agent" shall mean any person who acts for gain as an intermediary between any other person and a totalizator or a bookmaker operating on a race-course or at any place opened under the provisions of section *twenty* of the principal law but shall not include a person acting on behalf of the owner, registered owner, lessee or trainer of a horse.

Whenever, in this Ordinance, the expressions "foot race," "motor-cycle race," "cycle race," or "motor race," or "shooting, running or boxing contests" 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.

## CHAPTER I.

### LICENSING OF RACECOURSES.

#### Licensing of Racecourses.

2. (1) The Administrator may from time to time, upon application in writing to him, grant a licence to any person to hold race meetings on any land in the Province which is in lawful occupation of that person; such licence shall be in respect of such land which shall, during the period of validity of such licence, be deemed to be a licensed racecourse.

(2) Every such licence shall be valid for one year from date of issue thereof unless withdrawn under this section.

(3) A licence shall not be granted until rules and regulations under which the race meetings to be held in terms of such licence will be carried on have been approved by the Administrator, provided that any such rules and regulations approved under any law repealed by this Ordinance shall be regarded as having been approved under the provisions of this section.

(4) Any licence may be withdrawn by the Administrator if the holder is convicted of any offence under this Ordinance.

(5) Every licence in the case of an association, shall be issued in the name of the secretary or other like officer and may be transferred at the request of the association to the successor in office of the licensee.

(6) Every licence shall be produced on the demand of any police officer above the rank of sergeant, and any person who fails to produce such licence shall be guilty of an offence.

(7) The licensee shall be entitled to exclude from any racecourse any person in accordance with the rules and regulations approved under this section, and any person who re-enters a racecourse in contravention of the powers herein vested in the licensee shall be guilty of an offence.

(8) Any licence to hold race meetings which is in force at the date of the commencement of this Ordinance shall be of full force and effect until its expiry as though it were issued under the provisions of this Ordinance.

#### Conditions of Licence.

3. The following conditions shall be attached to any licence to hold race meetings:—

(a) No person shall be admitted to a racecourse on any day on which a race meeting is being held without the payment of a minimum charge of five shillings unless such person shall be in possession of a certificate issued by or on the authority of the licensee certifying that such person is a bona fide owner or trainer or bona fide employed in connection with the meeting or is a member of the club or association holding the meeting and has paid to the licensee an annual subscription the amount of which shall have been fixed by the club or association and approved of by the Administrator or is a person for whose admission to a racecourse without such payment authority has been given by the Administrator to such club or association;

(b) no person under the age of twenty-one years other than jockeys shall be admitted to the racecourse on any day on which a race meeting is being held;

(c) no race meetings shall be held by the licensee other than on the racecourse mentioned in the licence;  
provided that the provisions of paragraphs (a) and (b) of this section shall not apply in the case of racecourses situate outside a radius of twenty-five miles from the General Post Office, Johannesburg, and outside the Municipality of Pretoria.

#### Number of Race Meetings.

4. Any person to whom any licence to hold race meetings has been issued shall be guilty of an offence if he holds or permits to be held more than fifteen race meetings during the currency of his licence or any renewal thereof or if he breaks or permits to be broken any condition attached to a licence or if he fails to take such precautions as may be necessary to ensure that such conditions are complied with.

#### Prohibition of Racing and Publication of Race Card except on Racecourse.

\*5. Any person shall be guilty of an offence who—

(a) takes part in, or aids and abets any other person in taking part in a race meeting except upon a licensed racecourse and upon a race day;

(b) sells or offers for sale or circulates a racecard except on 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. The provisions of this paragraph shall not apply to the sale or offering for sale or circulation of race cards in or from the offices of a person who is in possession of a valid licence issued in terms of section *two* or in or from the offices of a committee constituted under the provisions of sections *twenty* and *twenty-one* or in or from the cubicle of a bookmaker at a place opened under the provisions of section *twenty*''.

For the purpose 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.

#### Postponement or Continuation of Race Meeting in certain Circumstances.

6. Whenever Christmas Day falls upon a Saturday or whenever a race meeting has been fixed for any particular race day and the weather or any unforeseen circumstance prevents or renders undesirable the holding or continuation of that meeting on that day the Commissioner of Police may in his absolute discretion give to the person who has organized that meeting permission in writing to hold the meeting or continuation of the meeting on a racecourse on another day other than on Good Friday or Ascension Day and such permission shall be a defence to any charge under section *five*.

#### Licence may be Issued for One Day.

7. (1) Notwithstanding anything to the contrary in this Ordinance the Administrator may issue to any person a licence to hold a race meeting on any day except Christmas Day, Good Friday, or Ascension Day at an approved place outside a radius of 25 miles from Johannesburg and outside the Municipality of Pretoria and issue of such licence shall be a defence to any charge under section *five*.

#### Special Permission to hold Race Meetings.

(2) The Administrator may likewise grant to any person in possession of a licence special permission to hold a race meeting on any day except Christmas Day, Good Friday, or Ascension Day provided that the number of meetings held by such person during the currency of the licence shall not exceed fifteen.

## CHAPTER II.

### LICENSING OF TOTALIZATORS.

#### Licensing of Totalizators.

†8. (1) The Administrator may upon written application issue to the holder of any licence to hold race meetings a licence to use a totalizator or totalizators on a race day upon a site on a racecourse approved by the Commissioner of Police. Such licence may be revoked by the Administrator if default be made in complying with any provision of this section or if the totalizator be used at any site not approved as aforesaid by the Commissioner of Police.

(2) Every transaction effected by means of the totalizator must be registered on a ticket board which shall be in such form as is approved by the Commis-

\* As amended by section *one* of Ordinance No. 7 of 1941.

† As amended by section *eight* of Ordinance No. 14 of 1940.

sioner for Inland Revenue and which shall be in the uninterrupted view of the public.

#### **Duty Payable in respect of Totalizator Takings.**

(3) There shall be payable to the Commissioner for Inland Revenue for the benefit of the Provincial Revenue Fund by the licensee—

(a) a duty calculated at the rate of five per cent. of the gross takings of each totalizator in respect of which a licence has been issued; and

(b) a duty calculated at the rate of two per cent. of the net takings of each such totalizator 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 purpose of this sub-section "net takings" shall mean the gross takings, less the amount deducted, as totalizator commission and duty payable under paragraph (a), but such commission and duty shall not together exceed twelve and one half per cent. of the gross takings of any one totalizator.

(4) A sworn statement on a form to be prescribed by the Commissioner for Inland Revenue showing all such particulars as are mentioned in sub-section (3) shall be made by the licensee. The statement aforesaid shall be submitted by the licensee to the Commissioner within twenty-one days after every race day on which a totalizator was used.

(5) 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 times by any person duly authorised in writing thereto by the Commissioner for Inland Revenue and any licensee who refuses to allow such inspection shall be guilty of an offence.

(6) If a licensee make default in transmitting such statement as aforesaid within the time prescribed he shall be liable to pay treble the amount due under this section.

#### **Premises for Settling of Bets.**

9. The Administrator may authorize any person lawfully holding a race meeting to keep open premises approved by the Commissioner of Police for five hours on each of the next succeeding two week days (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 such hours.

#### **Police may Enter Racecourse or Premises.**

10. (1) Any police officer of or above the rank of sergeant or any person duly authorized thereto by the Administrator may enter upon any racecourse or upon any premises mentioned in the last preceding section and if he has reasonable grounds for suspecting that a contravention of this Ordinance is taking place or has taken place may enter upon any premises whatever.

(2) Any person who shall resist, hinder, or obstruct any such officer in the exercise of his powers under this Ordinance shall be guilty of an offence.

### **CHAPTER III.**

#### **RESTRICTION OF BETTING.**

#### **Restriction of Betting—Penalties.**

11. (1) Any person shall be guilty of an offence against this Ordinance who—

(a) bets upon the result of any race unless the bet be made upon a racecourse on a race day either at sites on that racecourse approved by the Commissioner of Police or by means of a totalizator in respect of which a licence has been issued under section *eight* (1) and on in either case a race actually taking place on that racecourse on the day upon which the bet is made, or in or from the place opened under the provisions of section *twenty* of this Ordinance or at a whippet race meeting held under licence issued under the provisions of section *three* of the Whippet Racing (Control) Ordinance, 1926;

(b) bets at any time or place upon the result of any "foot race," "cycle race," "motor-cycle race," "motor race," or 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. The person betting with such person under the age of twenty-one shall be deemed to have known that such person was an infant unless he proves that he had reasonable grounds for believing such person to be of full age.

(2) Any person who is guilty of an offence against this section shall be liable—

(a) in the case of a first conviction to pay a fine of not less than £25 and not exceeding £50, or in default of payment to undergo three months'

imprisonment with hard labour, or to both such fine and imprisonment;

(b) in respect of a second conviction to pay a fine of not less than £50 and not exceeding £100, or in default of payment to undergo six months' imprisonment with hard labour or to both such fine and imprisonment;

(c) in the case of a third or subsequent conviction to pay a fine of not less than £100 and to undergo imprisonment with hard labour for a period of six months.

#### Restriction as to Place.

\*12. (1) No house, office, room or other place shall be opened, kept, or used by the owner, occupier, or keeper thereof, or any person using the same, or any person procured, or employed by or acting for or on behalf of such owner, occupier or keeper, or person using the same, or any person having the care or management or in any manner conducting the business thereof for the purpose of betting whether as principal or agent for any other person or for any purpose connected with betting.

(2) No house, office, room, or other place shall be opened, kept, or used at any time for the purpose of any money or valuable thing being received by or on behalf of the owner, occupier, or keeper, or any other person whatsoever as or for the consideration for—

(a) any assurance, undertaking, promise, or agreement, express or implied, to pay or give thereafter any money or valuable thing on any event or contingency of or relating to any race, foot race, cycle race, motor-cycle race, motor race, fight, game, sport, or exercise, or on any event or contingency whatsoever; or

(b) securing the paying or giving by some other person of any money or valuable thing on any such event or contingency.

#### Person who Opens or Keeps Place—Penalties.

13. (1) Whosoever opens, keeps, or uses any house, office, room, or other place for any of the purposes mentioned in section *twelve*, or knowingly and wilfully permits the same to be opened, kept, or used by any other person for any of such purposes, or has the care or management of, or in any manner assists in conducting the business of any such house, office, room, or place opened, kept, or used for any such purpose, shall be liable on conviction:—

(a) in the case of a first conviction to pay a fine of not less than £50 and not exceeding £100, or in default of payment to undergo imprisonment with hard labour for a period of not less than three months, or to both such fine and imprisonment;

(b) in the case of a second or any subsequent conviction to pay a fine of not less than £100, or in default of payment to undergo six months' imprisonment with hard labour or to both such fine and imprisonment.

(2) Every person found in such house, office, room, or place, without lawful excuse, the proof of which shall be on such person, shall be liable on conviction to a fine of not less than £10 or two months' imprisonment with hard labour, and not exceeding £50 or six months' imprisonment with hard labour.

(3) All moneys, coins, notes, cheques, I.O.U.'s, or other writings for securing the payment of money, and all books, lists, cards, or other documents relating to racing or betting found in such house, room, office, or place, shall on conviction of any offender under the provisions of this section be forfeited to the Administrator.

#### Owner who Uses Place for Betting, etc.—Penalties.

14. Whosoever being the owner or occupier of any house, office, room, or place opened, kept, or used for any of the purposes mentioned in section *twelve*, or a person acting for him, or on his behalf, or as his manager or assistant—

(a) receives, directly or indirectly, any money or valuable thing—

(1) as a deposit on any bet on condition of paying any sum of money or valuable thing on the happening of any event or contingency of or relating to any race, foot race, cycle race, motor-cycle race, motor race, or fight, game, sport, or exercise, or contingency whatsoever; or

(2) as or for the consideration for any assurance, undertaking, promise, or agreement, express or implied, to pay or give thereafter any money or valuable thing on any such event or contingency; or

(b) gives any acknowledgment, note, security or draft on the receipt of any money or valuable thing paid or given as aforesaid purporting or intended to entitle the bearer or any other person to receive any money or valuable thing on the happening of any such event or contingency whatsoever, shall be liable on conviction:—

(1) in the case of a first conviction to pay a fine of not less than £50 and not exceeding £100, or in default of payment to undergo imprisonment with hard labour for a period of not less than three months and not exceeding six months;

\* As amended by section *two* of Ordinance No. 11 of 1939.



(2) in the case of a second or any subsequent conviction to pay a fine of not less than £100 and not exceeding £200 or in default of payment to undergo imprisonment with hard labour for a period of not less than six months but not exceeding twelve months or to both such fine and imprisonment.

#### **Frequenter of Place—Penalties.**

15. (1) Every person who frequents, uses, or is in any street for the purpose of any money or valuable thing being received by or promised to such person or on his behalf:—

(a) as or for the consideration for any assurance, undertaking, promise, or agreement, express or implied, to pay or give thereafter any money or valuable thing on any event or contingency of or relating to any race, foot race, cycle race, motor-cycle race, motor race, fight, game, sport, or exercise or on any event or contingency whatsoever;

(b) as or for the consideration for securing the paying or giving by some other person of any money or valuable thing on any such event or contingency as aforesaid;

(2) shall be liable on conviction—

(a) in the case of a first conviction to pay a fine of not less than £25 and not exceeding £50, or in default of payment to undergo imprisonment with hard labour for a period of three months;

(b) in the case of a second or any subsequent conviction to pay a fine of not less than £50 and not exceeding £100 or in default of payment to undergo six months' imprisonment with hard labour or to both such fine and imprisonment.

*Sections 16 and 17.—Repealed by section one of Ordinance No. 12 of 1930.*

#### **Infants may not Bet.**

18. Any person who makes a bet with or wagers with or sells or delivers any ticket, card, or thing mentioned in this Ordinance to, or who applies for or receives any such ticket, card, or thing for any person who is apparently an infant shall, if such person is an infant, be deemed to have known such person was an infant, unless he proves that he had reasonable grounds for believing, and did believe such person to be of full age and shall be guilty of an offence and shall be liable on conviction to the penalties laid down in section *fifteen* of this Ordinance.

#### **Bookmaker's Agent.**

19. Any person who—

(a) acts as a turf commission agent;

(b) acts as an agent for a bookmaker for the purpose of betting save as is provided in any regulation made under sub-section (i) of section *twenty-three*;

(c) acts for gain as an intermediary between any person and a bookmaker for the purpose of betting save as is provided in any regulation made under sub-section (i) of section *twenty-three*;

(d) being a bookmaker, pays or gives or promises to pay or give, either directly or indirectly, any money or valuable thing to any person in consideration of such person or any other person making bets with such bookmaker or other bookmaker;

shall be guilty of an offence and shall be liable on conviction to pay a fine not exceeding £25 or in default of payment to undergo imprisonment with or without hard labour for a period not exceeding three months.

\*19(bis). In any prosecution for a contravention of sections *twelve*, *fifteen* or *nineteen* of this Ordinance, it shall, unless the contrary is proved, be presumed that consideration passed for securing the paying or giving by some other person of any such money or valuable thing.

Whenever any books, accounts, betting slips, prize lists or any other documents relating to betting transactions are found in or on any premises entered under a search warrant, it shall be *prima facie* evidence in any prosecution for a contravention of sections *twelve* and *nineteen* of this Ordinance that such premises are kept or used by the accused person for the purpose of betting or for purposes connected with betting.

#### **Appointment of Committee—Tattersalls.\***

†20. (1) Notwithstanding anything to the contrary in this Ordinance the Administrator may authorize a committee (hereinafter referred to as Tattersalls) constituted in manner herein after prescribed to keep open on such days and at such times as may be prescribed by regulation a place or places and branches of any such place or places to be approved by the Administrator wherein or wherefrom bets may be made and settled on the result of any pony, galloway or horse race.

\* Added by section *three* of Ordinance No. 11 of 1939.

† As amended by sections *two* of Ordinance No. 21 of 1930, *one* of Ordinance No. 6 of 1932, and *four* of Ordinance No. 11 of 1939.

(2) It shall be lawful for any male white person over the age of twenty-one years to make bets on the result of any such race at any such place or places or at any branch of such place or places referred to in sub-section (1) of this section provided that such person has paid to the Committee constituted under section *twenty-one* of this Ordinance such subscription and for such period as may be prescribed by the Administrator by regulation and has not been excluded from membership by resolution passed by the committee under powers conferred by regulation made under paragraph (j) of section *twenty-three*.

(3) No person who is not a members of any Tattersalls shall be allowed to make bets on the results of any race at any place referred to in sub-section (1) hereof.

\*21. The committee as aforesaid shall be constituted in accordance with the following provisions:—

(a) A separate committee shall be constituted at Johannesburg and at any such other place or places as may be approved by the Administrator by notice in the *Provincial Gazette*.

(b) Every committee shall consist of not more than seven members or less than three members provided that Tattersalls at Johannesburg shall consist of seven members.

(c) Of the seven members of Tattersalls at Johannesburg (referred to hereinafter as Witwatersrand Tattersalls) three shall be appointed by the Administrator; two shall be elected by the members of such Tattersalls, of these two one from and by the licensed bookmaker members of such Tattersalls and one from and by the ordinary members of such Tattersalls; and the remaining two shall be elected at a meeting consisting of one representative of each person or association of persons in possession of a licence to hold race meetings under the provisions of this Ordinance on a racecourse within a radius of twenty-five miles from the General Post Office, Johannesburg.

Provided that no paid official of a race club, race course, betting committee or any racing association or any holder of a licence in connection with racing issued by the Jockey Club shall be eligible to be a candidate for election as representative of the ordinary members of such Tattersalls.

(d) Tattersalls at any place other than at Johannesburg may, subject to the provisions of paragraph (b) hereof be constituted by the Administrator by regulation in such manner as he shall think fit.

(e) Elections of members of any Tattersalls shall be held and conducted in accordance with regulations made under this Ordinance.

(f) If for any reason members are not elected at any election the Administrator may appoint any person or persons in addition to any of those who maybe or have been appointed by the Administrator in order to make up the full number of members of Tattersalls.

(g) The committee at Johannesburg known as Transvaal Tattersalls shall be known as Witwatersrand Tattersalls and shall continue in office until the 31st October, 1930.

#### Period of Office of Committee.

22. Any Committee constituted under the provisions of the preceding section shall hold office until the 31st October in the year following the date of its first meeting and a committee shall thereafter be constituted annually in manner hereinbefore provided. Any member thereof may be removed from office by the Administrator without any reason being given or assigned for such removal. Any vacancy in the committee shall be filled by the Administrator and the person appointed to fill such vacancy shall hold office for the period for which the retiring member was appointed.

#### Regulations.

†23. The Administrator may make, alter and recind regulations for the carrying out of the objects of this Ordinance and in particular in respect of the following matters:—

(a) For the management and control of any place opened under the provisions of section *twenty* of this Ordinance, including the regulation of betting and settling of bets therein;

(b) for the conduct of meetings of any committee constituted under the provisions of section *twenty-one* of this Ordinance, and for prescribing the duties of such committee or sub-committees appointed by such committee;

(c) for prescribing the hours during which any place opened under the provisions of section *twenty* of this Ordinance may be kept open for the making and settling of bets, and for securing police supervision in respect of such place and for giving powers of entry to police or other officials and for the ejectment of drunken, noisy, or disorderly persons;

\* As substituted by section *three* of Ordinance No. 21 of 1930 and amended by section *one* of Ordinance No. 6 of 1938.

† As amended by section *twenty-one* of Ordinance No. 21 of 1930.

(d) for prescribing fees or allowances to members of the committee constituted under section *twenty-one* of this Ordinance and the manner of and conditions of appointment, salaries and privileges of servants of such committee;

(e) for prescribing the manner in which the accounts of any committee constituted under the provisions of section *twenty-one* of this Ordinance shall be kept and for the audit of such accounts by such officer as may be appointed by the Administrator.

(f) for ensuring that no unqualified person shall bet at any place opened in accordance with the provisions of section *twenty* of this Ordinance and for prescribing the conditions under which any bookmaker shall be permitted to make bets and for fixing the amount and class of security to be lodged by such bookmakers;

(g) for empowering any committee constituted under the provisions of section *twenty-one* of this Ordinance to settle any disputes which may arise in connexion with the carrying on of betting;

(h) for determining how the funds or assets of any committee constituted under the provisions of section *twenty-one* of this Ordinance shall be administered and how any profits shall be applied;

(i) for ensuring that no person shall bet on behalf of any other person at any place opened in accordance with the provisions of section *twenty* of this Ordinance except with the written consent of the committee constituted under section *twenty-one* of this Ordinance;

(j) for empowering the committee constituted under section *twenty-one* to exclude from membership of the place referred to in section *twenty* of this Ordinance any person whom the said committee might consider undesirable;

(k) for prescribing the conditions which shall apply to the issue of any licence issued under sub-section (1) of section *eight*;

(l) for the holding and conducting of nominations and elections of the members of any committee referred to in section *twenty* for fixing the date, place and time and the appointment of presiding officers at any such elections and for determining the qualifications of persons as members of any such committee and of persons entitled to vote at any such elections.

(m) for regulating and controlling the publication by bookmakers of information relating to betting on intended race or races in the Province of Transvaal or elsewhere provided that such publication shall not in any case take place until after the closing of nominations in connection with such race or races.

(n) for prohibiting any person or persons from advertising that any such person or persons will bet in connection with any intended race in any part of the Province of Transvaal or elsewhere provided that this paragraph shall not apply to circulars approved by any Tattersalls and issued by any licensed bookmakers who are members thereof.

(o) for empowering the committee with the consent of the Administrator to make grants of money towards the maintenance of any public hospital or to any fund created by proper authority for the relief of distress or poverty.

(p) for providing that no ante-post or straight-out betting shall be made at any place opened in accordance with section *twenty* upon any race the prize or stake in which is less than £300.

Any person contravening the provisions of any regulation framed under the provisions of this section or any other provision in this Ordinance in respect of which no penalty is specifically provided shall be guilty of an offence and shall be liable on conviction to pay a fine not exceeding £25 or in default of payment to undergo imprisonment with or without hard labour for a period not exceeding three months. Notwithstanding the repeal of the Betting Ordinance, 1918, any regulations made thereunder shall remain in full force and effect until such regulations are altered or rescinded under the provisions of this Ordinance.

#### **Rewards to Informers.**

\*23bis. Notwithstanding anything to the contrary in any other law contained, any person other than a person in the service of the State who gives information which leads to conviction and to the infliction of any forfeiture or fine under the provisions of this Ordinance, may at the discretion and under the written authority of the Commissioner of the South African Police be paid by the Accounting Officer of the Transvaal Provincial Administration a monetary reward not exceeding one-third of both the monies forfeited and fines inflicted and received.

*Section five of Ordinance No. 11 of 1939 provides:—*

\* Added by section *one* of Ordinance No. 6 of 1942.

**Licensing Provisions in Respect of Dog-Racing as Prescribed by Ordinance No. 3 of 1926, as Amended, not Affected by Principal Law.**

5. (1) The provisions of Chapter 1 of the principal law shall not apply to any dog race conducted under the provisions of Ordinance No. 3 of 1926, as amended.

(2) Nothing in this Ordinance or in the principal law contained shall affect the provisions of Ordinance No. 3 of 1926, as amended by Ordinance No. 15 of 1933, in respect of the days on which and the time when Whippet or Dog Racing may be held.

**Repeal.**

24. The following laws shall be and are hereby repealed:—

Horse Racing and Betting Restriction Act, 1909.

Horse Racing and Betting Restriction Amendment Ordinance, 1917.

Horse Racing and Betting Restriction Further Amendment Ordinance, 1918.

Horse Racing and Betting Restriction Further Amendment (No. 2) Ordinance, 1918.

Betting Ordinance, 1918.

Horse Racing and Betting Restriction Amendment Ordinance, 1921.

Horse Racing and Betting Restriction Amendment Ordinance, 1922.

Betting Amendment Ordinance, 1922.

**\*Short Title.**

25. This Ordinance may be cited for all purposes as the Horse Racing and Betting Ordinance, 1927, and shall come into operation on such dates as the Administrator may by Proclamation declare.

**No. 10 of 1927.—General Dealers (Control) Amendment.—Repealed by Ordinance No. 3 of 1932.**

**No. 11 of 1927.—Roads Amendment.—Repealed by Ordinance No. 9 of 1933.**

**No. 12 of 1927.—Unauthorised Expenditure (1925-1926).**

**No. 13 of 1927.—Appropriation (1927-1928).**

**No. 14 of 1927.**

(Assented to 30th July, 1927.)

**AN ORDINANCE**

(Date of operation 1st October, 1927.)

(English copy signed by Governor-General.)

**To provide for the payment of Retiring Pensions and Financial Benefits to certain persons serving in Provincial Hospitals of Transvaal, and to certain School Board Officials.**

BE IT ENACTED by the Provincial Council of Transvaal as follows:—

**Interpretation of Terms.**

\*1. In this Ordinance unless inconsistent with the context—

“actuary” means a Fellow of the Institute of Actuaries of London or of the Faculty of Actuaries in Scotland or any other person recognized as an actuary by the Governor-General;

“Administrator” means the officer appointed under sub-section (1) of section *sixty-eight* of the South Africa Act, 1909, or any amendment thereof, acting on the advice and with the consent of the Executive Committee of the Province;

“Administration” means the Transvaal Provincial Administration;

“aided hospital” means an aided hospital as defined in section *two* of the Public Hospitals Ordinance No. 18 of 1928;

“annuity” means the annual sum payable during the lifetime of a retired or retiring officer;

“Authority” means “Administration” in so far as the matter affects a school board officer and “board” in so far as the matter affects a hospital officer;

“board” means the board as defined in section *two* of the Public Hospitals Ordinance No. 18 of 1928 of the hospital concerned;

“fixed date” means the date fixed under this Ordinance for the establishment of the fund, provided that with reference to an officer or person other than a nurse who was employed in an aided hospital on the 31st day of December, 1928, it shall mean the 1st day of April, 1929;

“the fund” means the fund established under this Ordinance;

“hospital officer” means an officer employed by a board;

“medical officer” means any duly qualified medical practitioner or practitioners approved by the Administration;

\* In terms of the Dog Racing Ordinance of 1940, so much as relates to dog racing in this Ordinance is repealed.

† As amended by section *one* of Ordinance No. 8 of 1929.

"officer" means a person employed in a permanent and whole-time capacity in one of the offices or posts described in the schedule to this Ordinance;

"this Ordinance" includes regulations;

"pension" includes an annuity or gratuity or both as the context requires;

"pensionable emoluments" include—

- (a) salary;
- (b) ration allowances or the value of free rations;
- (c) allowances for quarters or the estimated value of free quarters;
- (d) uniform allowance or the estimated value of free uniforms;
- (e) laundry allowance or the estimated value of free laundry;

but do not include—

- (i) any local allowance for the cost of living; or
- (ii) a climatic allowance; or
- (iii) any special remuneration which an officer may receive for performing special duties or while acting in an office, whether permanently or temporarily vacant; or
- (iv) any transport or subsistence allowance; or
- (v) fees, honoraria, or bonuses of any kind; or
- (vi) overtime payments; or
- (vii) any other allowance not herein specified.

"prescribed" means prescribed by, or under the authority of this Ordinance or any other law;

"provincial hospital" means a provincial hospital as defined in section two of the Public Hospitals Ordinance No. 18 of 1928;

"regulation" means a regulation made and in force under this Ordinance;

"revenue" means the Provincial Revenue Fund as constituted under section eighty-nine of the South Africa Act, 1909;

"salary" means the annual pay of an officer and includes any special or personal allowance attached to a particular office if the allowance, when granted, be specially declared by the Administration to be part of pensionable emoluments;

"school board officer" means an officer occupying a post under a school board;

"superannuation" means in relation to any officer the attainment of the age fixed by this Ordinance for retirement of such an officer.

#### Establishment of the Fund.

\*2. (1) There shall be established as from a date to be fixed by proclamation in the *Provincial Gazette* a fund to be called the Transvaal Hospital and School Board Officials Pension Fund and such fund shall consist of—

(a) contributions made by officers in accordance with the provisions of this Ordinance;

(b) sums and interest paid out of revenue in accordance with the provisions of this Ordinance;

(c) any sums payable by a board in accordance with the provisions of this Ordinance or of the Public Hospitals Ordinance No. 18 of 1928;

(d) any other sums which under this Ordinance are to be credited to the fund.

(2) All amounts contributed or paid to the fund shall be lodged with the Administration to the credit of the fund in a separate deposit account, and any balances not required for current purposes shall be devoted to the purchase of stock of the Union of South Africa, the Province of Transvaal, or any local authority in the Union of South Africa, subject to the approval of the Public Debt Commissioners and the Administration; provided that if the total investments produce during any financial year an average rate of interest lower than four per cent. per annum, a sum equal to the deficiency shall, as soon as the deficiency is ascertained, be paid from revenue to the fund.

#### Contributions by Officers Appointed on or after the Fixed Date.

\*3. (1) Every officer appointed on or after the fixed date save as provided in sub-sections (2) and (3) of this section and subject to the production of a certificate by a medical officer which is satisfactory to the Administration shall as from the date of his appointment make contributions to the fund in accordance with the following scale:—

\* As amended by section two of Ordinance No. 8 of 1929 and section two of Ordinance No. 4 of 1934.

† As amended by section three of Ordinance No. 8 of 1929, section three of Ordinance No. 4 of 1934, and section one of Ordinance No. 9 of 1939.

<i>Age last birthday at commencement of pensionable service.</i>	<i>Per cent. of pensionable emoluments:</i>	
	<i>Males.</i>	<i>Females.</i>
Under 30 years ... ..	4	5.25
30 years ... ..	4.1	5.40
31 years ... ..	4.2	5.55
32 years ... ..	4.3	5.70
33 years ... ..	4.4	5.85
34 years ... ..	4.5	6.0
35 years ... ..	4.6	6.2
36 years ... ..	4.7	6.4
37 years ... ..	4.8	6.6
38 years ... ..	4.9	6.8
39 years ... ..	5.0	7.0

(2) An officer appointed on or after the fixed date whose age is at the date of appointment forty years or over, may, within three months after the date of his appointment, elect to make contributions to the fund, but it shall not be obligatory upon him to do so.

Provided that all the contributions in respect of any period within which under this sub-section such an officer has been making his election shall be paid by the officer at the end of the month in which he notifies his intention of contributing, notwithstanding anything to the contrary in this Ordinance contained.

Provided further that a male officer whose age at the date of his appointment is forty years or over shall, if he elect to contribute, make contributions to the fund in accordance with the following scale:—

<i>Age last birthday at commencement of pensionable service.</i>	<i>Per cent. of his pensionable emoluments.</i>
40 years ... ..	5.1
41 years ... ..	5.2
42 years ... ..	5.3
43 years ... ..	5.4
44 years ... ..	5.5
45 years ... ..	5.6
46 years ... ..	5.7
47 years ... ..	5.8
48 years ... ..	5.9
49 years ... ..	6.0

and provided further that a female officer whose age at the date of her appointment is forty years or over shall, if she elect to contribute, make contributions to the fund in accordance with the following scale:—

<i>Age last birthday at commencement of pensionable service.</i>	<i>Per cent. of her pensionable emoluments.</i>
40 years ... ..	7.2
41 years ... ..	7.4
42 years ... ..	7.6
43 years ... ..	7.8
44 years ... ..	8.0

(3) No contributions to the fund shall be made by an officer or person—

- (a) while under the age of sixteen years; or
- (b) whose age on appointment in the case of males is fifty years or over and in the case of females forty-five years or over; or
- (c) whose pensionable emoluments amount to less than ninety pounds per annum; or
- (d) engaged for the completion or performance of specific work; or
- (e) remunerated solely by fees or allowances.

Provided that nothing in this or any other section of this Ordinance contained shall be construed as preventing an officer who has, by reason of the removal of any of the disabilities referred to in this sub-section, become eligible to make contributions, from contributing to the fund.

(4) In the case of a person who is eligible for permanent appointment and who may be employed temporarily on or after the fixed date in an office or post specified in the schedule to this Ordinance, or appointed on probation, the person may be given the option of contributing in respect of his temporary or probationary service. Such option shall be exercised within one month from the date of his being called upon by the Authority to do so. If he elects so to contribute contributions shall be made as from the date of his first appointment (whether temporarily or on probation) and the total contributions from the due date shall anything to the contrary notwithstanding in this Ordinance contained, be recovered from the next succeeding payment of salary, and if he elects not to contribute, or fails to make his election within the prescribed period, he shall not at any future date be permitted to contribute in

respect of such temporary or probationary service; provided that, if for any reason the person is not appointed permanently or if his appointment on probation is not confirmed, the said contributions shall be regarded as made erroneously and shall be refunded to him without interest.

(5) Every officer or person other than an officer who elected to contribute in terms of section *five* contributing as at 30th day of June 1939 shall as from the 1st day of July 1939, and every such officer or person not so contributing shall as from the commencement of his pensionable service pay contributions to the fund in accordance with the following scales:—

(a) In respect of male officers or persons:—

<i>Age last birthday at commencement of pensionable service.</i>	<i>Per cent. of pensionable emoluments.</i>
Under 30	5·75
30	5·85
31	5·95
32	6·05
33	6·15
34	6·25
35	6·35
36	6·45
37	6·55
38	6·65
39	6·75
40	6·85
41	6·95
42	7·05
43	7·15
44	7·25
45	7·35
46	7·45
47	7·55
48	7·65
49	7·75

(b) In respect of female officers or person:—

<i>Age last birthday at commencement of pensionable service.</i>	<i>Per cent. of pensionable emoluments.</i>
Under 30	7·05
30	7·65
31	7·80
32	7·95
33	8·10
34	8·25
35	8·45
36	8·65
37	8·85
38	9·05
39	9·25
40	9·45
41	9·65
42	9·85
43	10·05
44	10·25

#### Officers Employed at Fixed Date Eligible to Contribute to the Fund and Contributions by such Officers.

\*4. (1) Every officer employed at the fixed date shall subject to the production of a certificate by a medical officer which is satisfactory to the Administration be eligible to contribute to the fund in respect of the whole or part of his past continuous employment subsequent to the 31st December, 1904; provided that his age at the date from which he elects to contribute to the fund does not exceed fifty years in the case of male and forty-five years in the case of female officers.

(2) An officer who elects to contribute to the fund shall make contributions to the fund in accordance with the scales prescribed in section *three*.

(3) (i) An officer who elects to contribute to the fund under this section shall be called upon by the Authority to intimate in writing within a reasonable period to be specified by the Administration what period (if any) of his past continuous employment subsequent to the 31st December, 1904, he desires to have reckoned for purposes of pension. The Authority shall then decide whether or not that period or any portion thereof may be counted as continuous employment for pension purposes, and if it be decided that the officer is entitled to

\* As amended by section *four* of Ordinance No. 8 of 1929 and section *four* of Ordinance No. 4 of 1934.

count such period or portion thereof, the officer shall pay to the fund an amount equal to his own contributions at the prescribed rate from the date approved by the Authority up to the date in respect of which the first monthly deduction is made.

(ii) The Authority shall contribute to the fund interest compounded annually up to the fixed date at the rate of four and one half per cent. on the amounts mentioned in the preceding paragraph together with an amount equal to the contributions of the officers with interest compounded annually at the rate of four and one half per cent. from the dates approved by the Authority up to the dates in respect of which the first monthly deduction is made. Provided that any liability incurred by the Administration in respect of an officer or person other than a nurse employed at a provincial hospital prior to the 1st day of January, 1929, shall continue to be borne by the Administration anything to the contrary in this paragraph notwithstanding.

(4) An officer who is eligible to contribute to the fund under the provisions of this section or the next succeeding section but does not elect so to contribute shall not be entitled at any time to receive any pension or other benefit whatsoever either from the fund or from revenue or from the board.

**Contributions by, and Payment of Gratuities to Officers with not less than Ten Years' Service at Fixed Date.**

\*5. (1) Every officer employed at the fixed date who has been employed continuously for a period of not less than ten years may, in place of contributing to the fund in accordance with the provisions of section *four*, elect to make contributions to the fund at the rate of four per cent. of his pensionable emoluments in respect of employment from the fixed date.

(2) An officer who elects to contribute to the fund under this section shall be called upon by the Authority to intimate in writing, within a reasonable period to be specified by the Administration, the period during which he claims to have had continuous employment subsequent to the 31st December, 1904, and any such period or any portion thereof that the Authority shall then decide may be counted as continuous employment for pension purposes shall be regarded as continuous employment for the purpose of this section.

(3) (i) Notwithstanding anything to the contrary in this Ordinance contained any officer who elects to contribute to the fund under this section shall, on retirement for the reasons described in sections *nine*, *ten*, *eleven*, or sub-section (b) of section *thirteen*, receive in place of the benefits prescribed a gratuity of one month's pensionable emoluments at the rate he was receiving at the time of retirement for each two years of continuous employment for the first ten years of such employment and a gratuity of one month's such pensionable emoluments for each additional year of such employment.

(ii) The Authority shall pay to the fund the present value computed actuarially as at the fixed date of such portions of these gratuities as are in respect of employment prior to the fixed date. Provided that any liability incurred by the Administration in respect of an officer or person other than a nurse employed at a provincial hospital prior to the 1st day of January, 1929, shall continue to be borne by the Administration anything to the contrary in this paragraph notwithstanding.

*Section nine of Ordinance No. 4 of 1934 provides:*

**Election by certain Persons to Contribute to the Fund.**

9. (1) Notwithstanding anything in the Principal Ordinance contained any person who by the terms of his appointment made in accordance with law is not eligible to contribute to the fund, or any person temporarily employed [not being a person governed by sub-section (4) of section *three* of the Principal Ordinance] may, on appointment to a post as described in the schedule to the Principal Ordinance and subject to the approval of the authority, elect to contribute to the fund in respect of any period of his past continuous employment under an authority subsequent to the 31st December, 1904, provided such election is made within one month of being called upon to do so by the authority. The officer shall pay to the fund an amount equal to his own contributions at the prescribed rate from the date approved by the authority up to the date in respect of which the first monthly deduction is made, together with interest thereon at the rate of four and a half per cent. per annum, compounded annually, from the dates such contributions became due up to the date on which payment of such contributions is made to the fund. The provisions of sub-section (1) and (2) of section *six* shall *mutatis mutandis* apply with regard to the payment of such arrear contributions.

(2) The authority shall contribute in respect of any period of past continuous service approved in terms of sub-section (1) of this section an amount equal to the contributions prescribed, together with interest at the rate

\* As amended by section *five* of Ordinance No. 8 of 1929.



of four and a half per cent. compounded annually from the dates such contributions became due up to the date on which payment of such contributions is made to the fund. Payment of the full amount due shall be made on demand by the Administration.

#### Method of Contributions by Officers.

\*6. (1) Every contribution of an officer to the fund shall be made by monthly deduction from his pensionable emoluments, and in the case of contributions from officers which may be made in respect of any period prior to that in respect of which the first monthly deduction is made, the first complete instalment shall be deemed to have commenced as from the day next before such date and each further complete instalment to have been paid on the last day of each month immediately preceding the last such instalment and continue in regular order until the last instalment has been paid.

(2) Every officer shall pay into the fund either by a single payment or by instalments approved by the Administration to be completed before the attainment of the retiring age such arrears as may be due by him. Such arrears shall as from the fixed date bear interest at the rate of four and one-half per cent. per annum compounded annually and such interest shall continue to be payable on the balance of arrears outstanding until such time as the whole of the arrears shall have been liquidated; provided that, if any such officer retires upon an annuity before the total instalments have been paid, the annuity shall be calculated upon the whole period of his continuous employment in respect of which he has elected to contribute to the fund and the instalments outstanding shall be deducted from the annuity payments, and if death occurs before these are completed, the balance outstanding shall be deducted from any payments from the fund to which his representatives are entitled.

(3) An officer shall continue to contribute to the fund while on leave with full pay or with pay less than full pay and his contributions shall be payable on the full pensionable emoluments which would have been drawn if the officer had not been on leave. An officer may on application be permitted by the Authority to contribute in respect of any period of authorized leave of absence without pay but such application must be made and the amount due in respect thereof must be actually paid by the officer within one month of his return to duty; provided that the officer may on making written application be permitted to refund the amount in six or less monthly instalments deducted from the pensionable emoluments payable to him. Failing such application and such payment by the officer no contributions shall be collected or be payable in respect of any period of leave without pay and no such period shall be reckoned in calculating the period of his pensionable employment.

#### Contributions by the Administration.

\*7. On and after the first day of January, 1929, there shall be paid to the fund:—

(1) By the Authority:

(a) a sum equal to the aggregate of the current contributions made by officers or persons to the fund;

(b) the amounts mentioned in paragraph (ii) of sub-section (3) of section *four* in respect of officers who commenced to contribute to the fund on or after the 1st day of January, 1929;

(c) the amount mentioned in paragraph (ii) of sub-section (3) of section *five*, in respect of officers who commenced to contribute to the fund on or after the 1st day of January, 1929.

(2) From revenue:

(a) the amounts mentioned in paragraph (ii) of sub-section (3) of section *four* in respect of officers other than those mentioned in paragraph (1) (b) of this section;

(b) the amounts mentioned in paragraph (ii) of sub-section (3) of section *five*, in respect of officers other than those mentioned in paragraph (1) (c) of this section;

(c) interest at the rate of four per cent. per annum on the average uninvested balance of the fund.

The payments referred to in paragraphs (1) (a) and (2) (c) of this section shall be made to the fund monthly.

The Administration shall pay into the fund over a period of ten years from the fixed date such equal or approximately equal monthly instalments as are required to make good the amounts due under paragraphs (a) and (b) of sub-section (2) of this section, together with interest compounded annually at the rate of four and one-half per cent. from the dates such amounts become due.

\* Printed as amended by section *six* of Ordinance No. 8 of 1929 and section *five* of Ordinance No. 4 of 1934.

† As substituted by section *seven* of Ordinance No. 8 of 1929 and amended by section *six* of Ordinance No. 4 of 1934 and section *two* of Ordinance No. 9 of 1939.

The Authority shall pay into the fund over a period not exceeding five years from the fixed date such equal or approximately equal monthly instalments as are required to make good the amounts due under paragraphs (b) and (c) of sub-section (1) of this section, together with interest compounded annually at the rate of four and one-half per cent. from the dates such amounts become due.

The contributions payable by the authority in respect of every officer or person other than an officer who elected to contribute in terms of section *five* contributing as at the 30th day of June, 1939, shall as from the 1st day of July, 1939, and the contributions payable by the authority in respect of every such officer or person not so contributing shall as from the commencement of his pensionable service be at the rates prescribed in sub-section (5) of section *three*.

#### Method of Calculation of Annuity.

\*8. Subject to the provisions of this Ordinance, any annuity payable out of the fund shall be based on the average pensionable emoluments of the retiring officer for the last seven years of his period of contributions to the fund and shall be calculated at the rate of one-sixtieth of those average pensionable emoluments for each year of contribution.

Provided that—

(a) no annuity shall be paid out of the fund to any officer until contributions have been made by him in respect of a period of ten years or more;

(b) the officer is in other respects entitled to an annuity under this Ordinance;

(c) the total annuity paid to any officer who is entitled to an annuity under any provisions of this Ordinance shall not be at a lesser rate than £60 per annum.

For the purposes of this section the period of contributions shall be calculated by the year and month and fractions of a month shall be disregarded.

#### Retirement at or after the Prescribed Ages upon Annuity.

†9. (1) A male officer who has attained the age of sixty years and a female officer who has attained the age of fifty-five years shall have the right to retire and shall be required so to retire unless it is desirable in the public interest to retain such officer in his office or post over that age, and in that event such an officer may from time to time with the approval of the Administrator after consultation with the medical officer be retained for further periods (not exceeding one year at a time) up to the age of sixty-five years, after which age no officer shall be retained in an office or post.

Provided that a return of male school board officers retained after the age of sixty years and female school board officers retained after the age of fifty-five years shall be laid before the Provincial Council within fourteen days of the commencement of every ordinary session thereof; and provided further that if any officer is retained in a temporary capacity after reaching the age of sixty-five years, any benefits which have accrued under this Ordinance or any amendment thereof to such officer shall be withheld until he finally leaves the service.

(2) A male officer who has attained the age of fifty-five years and a female officer who has attained the age of fifty years may be required by the Authority to retire on pension, but all payments made of any annuity before the officer has reached the age at which he is entitled to retire under sub-section (1) of this section shall be paid by the Authority and not out of the fund; provided that any such payments in respect of annuities in force on the 1st day of January, 1929, shall continue to be paid out of revenue until he attains such retiring age.

#### Retirement upon an Annuity before the Prescribed Age on Grounds of Ill-health.

10. (1) An officer who, having contributed to the fund in respect of a period of ten years or more, is found by the Administration acting upon the advice of a medical officer on the grounds of permanent ill-health caused without his own default to be unfit to discharge efficiently the duties of his office or post shall be temporarily retired and shall be entitled to receive in respect of his completed period of contributions an annuity as is provided in section *eight*.

(2) If an officer to whom an annuity has been granted under sub-section (1) of this section be certified by a medical officer within two years after his temporary retirement to be fit for duty and is still under the age of superannuation he may be required to resume duty in his former or in any other office or post. If he refuses to resume duty without reasonable cause the annuity provided under sub-section (1) shall cease. Provided that—

(a) the pensionable emoluments attaching to the office or post shall not be less than the pensionable emoluments drawn by him immediately prior to his temporary retirement;

\* As amended by section *seven* of Ordinance No. 4 of 1934, the amendment only applying to officers who are retired on annuity after the 31st March, 1934.

† As amended by section *eight* of Ordinance No. 8 of 1929.

(b) the office or post in which he is required to resume duty is not of a lower grade than that from which he is temporarily retired;

(c) any annuity which he was drawing at the time of resuming duty shall determine;

(d) on his final retirement he shall be entitled for the purposes of annuity to add together the periods of employment prior to and subsequent to his temporary retirement if he contributes to the fund during that subsequent period.

If on the expiration of two years from the date of his temporary retirement an officer has not been required to resume duty or is still medically unfit for duty he shall be deemed to have finally retired.

#### **Retirement upon an Annuity owing to Reorganization.**

\*11. (1) An officer who has contributed to the fund in respect of a period of ten years or more, if retired

(a) owing to the abolition of his office or post; or

(b) owing to reduction or reorganization or readjustment of offices or staff; or

(c) because his removal would facilitate improvements in organization; or

(d) because the Authority considers that he has become unfitted for performing efficiently the duties of his office or post from causes not within his own control and not attributable to the performance of his official duties; shall be entitled to receive in respect of his completed period of contributions an annuity calculated as is provided in section *eight*. All payments of such annuity made before such an officer attains the retiring age prescribed under section *nine* shall be paid by the Authority and not out of the fund, but all such payments after he attains that age shall be made out of the fund; provided that any such payments in respect of annuities in force on the 1st day of January, 1929, shall continue to be paid out of revenue until he attains such retiring age.

(2) Deleted by sub-section (1) of section nine of Ordinance No. 8 of 1929.

#### **BENEFITS OTHER THAN ANNUITIES.**

##### **Return of Contributions.**

†12. An officer shall be entitled, on application, to a return of the whole of his own contributions to the fund at the prescribed rate together with simple interest calculated at the rate of three per cent. per annum if he has completed three years' continuous employment and at the rate of four per cent. per annum if he has completed five years' continuous employment and at the rate of five per cent. per annum if he has completed ten years' continuous employment if he retires from any cause whatsoever, unless the retirement be under the provisions of sections *ten*, *eleven*, *thirteen*, or *sixteen* and on the payment of such sum the said officer shall have no further claim upon the fund. Provided that in the case of an officer dismissed for fraud or dishonesty no interest shall be allowed and the Administration may deduct from any sum thus payable the amount of any loss which the Authority may have sustained by reason of such fraud or dishonesty. Any such deduction shall be paid to the Authority.

##### **Return of Twice the Amount of Contributions.**

13. An officer shall be entitled, on application, to the payment of a sum equal to twice the amount of his own contributions at the prescribed rate to the fund, without interest if—

(a) he retires for reasons described in sections *ten* or *eleven* but before he has completed contributions to the fund in respect of a period of ten years; or

(b) being a female officer with not less than five years' continuous employment she is discharged on her marriage, or if she voluntarily retires in contemplation of her marriage and marries within three months after her retirement;

and on payment of the sum aforesaid the said officer shall have no further claim on the fund.

#### **ANNUITIES, GRATUITIES, OR RETURN OF CONTRIBUTIONS TO REPRESENTATIVES OF DECEASED OFFICERS.**

##### **Gratuity in event of Death before or soon after Retirement.**

‡14. (1) Subject to the provisions of sub-section (3) of this section, if an officer dies before his retirement there shall be paid to or for the benefit of the persons mentioned in sub-section (3) a gratuity equal to twice the amount of his contributions to the fund without interest; provided that in the case

\* As amended by section *nine* of Ordinance No. 8 of 1929.

† As amended by section *ten* of Ordinance No. 8 of 1929.

‡ As amended by section *eleven* of Ordinance No. 8 of 1929 and section *eight* of Ordinance No. 4 of 1934.

of an officer who has elected to contribute to the fund under the provisions of section *five* there shall be paid a gratuity as prescribed in paragraph (i) of sub-section (3) of section *five*.

(2) Subject to the provisions of sub-section (3) of this section, if any officer who has retired on an annuity under this Ordinance, die within five years after the date of his retirement, there shall be paid to or for the benefit of the persons mentioned in sub-section (3) either the annuity which such officer, if he had not died, would have drawn during the unexpired period of five years aforesaid, or a gratuity equal to the sum of the annuity payments during such unexpired portion of the period of five years aforesaid.

(3) The gratuity or annuity under sub-section (1) or (2) shall only be paid when the deceased officer leaves a wife or minor children or failing a wife or minor children any children or relatives or other persons dependent upon him. In every such case the payment shall be made to or for the benefit of one or more of such persons and the selection of the person or persons shall be in the discretion of the Authority when payment is made in terms of sub-section (1) hereof and Administration when payment is made in terms of sub-section (2) hereof.

(4) When the said annuity or gratuity has been paid, the Administration the board and the fund shall be exempt from any further payment.

(5) Notwithstanding anything to the contrary in this section contained if an officer die before his retirement or after he has retired on an annuity and shall not leave any such persons as described in sub-section (3) of this section there shall be paid to any person or persons nominated by him in a will an amount equal to his own contributions together with simple interest calculated at the rate of three per cent. per annum if he had at the date of his death completed three years' continuous employment and at the rate of four per cent. if he had completed five years' continuous employment and at the rate of five per cent. if he had completed ten years' continuous employment, less the amount, if any, which he may have received in respect of annuity.

#### **Pensions Payable from Revenue.**

\*15. The pensions or other benefits payable under the next two succeeding sections shall be payable by the authority; provided that any annuity in force as at the 1st day of January, 1929, shall continue to be paid out of revenue.

#### **Pensions to Officers Retiring in Consequence of Injury, etc., Received on Discharge of Duty.**

†16. (1) If an officer who makes contributions to the fund would at his retirement at the age of superannuation have been entitled to an annuity but is compelled to retire before his attaining that age by reason of severe bodily injury or permanent ill-health occasioned without his default in the discharge of and specially attributable to his official duties the Authority shall grant him a pension at the following rate, namely:—

(a) If it appear to the Authority after consultation with the medical officer that his capacity to contribute to the support of himself and his dependents is totally destroyed, an annuity of not less than half his average annual pensionable emoluments during the whole period of his contributions;

(b) if it appear to the Authority after consultation with the medical officer that his capacity to contribute to the support of himself and his dependents is materially impaired, an annuity at the rate of at least one-sixtieth of his average annual pensionable emoluments during the whole period of his contributions for each year of employment, and calculated upon those emoluments; provided that the contributions made to the fund both by the said officer himself and in respect of the said officer from revenue or by the board together with simple interest at four per cent. per annum shall be paid to the Authority out of the fund.

(2) Notwithstanding the provisions of sub-section (1) of this section in the case of an officer who has elected to contribute to the fund under the provisions of section *five* and who is compelled to retire before attaining the age of superannuation for the reasons described in sub-section (1) of this section the Authority may grant him such gratuity as it may deem adequate; provided that there shall be paid to the Authority out of the fund the gratuity prescribed in paragraph (i) of sub-section (3) of section *five*.

#### **Annuities to Relatives of Officers dying in consequence of Injuries, etc., received in Discharge of Duty.**

‡17. If an officer who makes contributions to the fund loses his life either from an injury sustained or from illness contracted in the circumstances described in the last preceding section, the Authority shall grant to or for the benefit of such persons as are described in sub-section (3) of section *fourteen*

\* As amended by section *twelve* of Ordinance No. 8 of 1929.

† As amended by section *thirteen* of Ordinance No. 8 of 1929.

‡ As amended by section *fourteen* of Ordinance No. 8 of 1929.

such annuity or gratuity as the necessities of the case may require, but such annuity shall in no case exceed one-half of his average pensionable emoluments during the whole period of his contributions.

Provided that the amount of the contributions made to the fund both by the said officer himself and in respect of the said officer from revenue or by the board together with simple interest at four per cent. per annum or in the case of an officer who elected to contribute under the provisions of section *five* the amount of the gratuity prescribed in paragraph (i) of sub-section (3) of section *five* shall be paid to the Authority out of the fund.

Provided further that the provisions of sub-section (3) of section *fourteen* shall *mutatis mutandis* apply in respect of the selection of the person or persons to whom the pension shall be granted.

Provided further that any such annuity shall cease—

- (a) in the case of a widow on her remarriage;
- (b) in the case of a minor who is a male on his attaining the age of eighteen years; and
- (c) in the case of a minor who is a female on her attaining the age of twenty-nine years or marrying under that age.

#### FINANCIAL.

##### Accounts.

18. (1) The Administration shall cause full and true accounts to the fund to be kept showing separately—

(a) all sums of money received or due and disbursed or repayable in respect of contributing officers or persons and particulars of the matters and things for which these sums of money have been received or disbursed;

(b) the dates of payment of the first and all subsequent contributions, together with all chronological and other particulars necessary to admit of proper accounts of the fund being kept in accordance with this Ordinance and the regulations, and to admit of an actuarial valuation of the fund being made at any time;

\* (c) all sums of money due to or from revenue or boards in connection with the fund;

(d) all other matters of account provided for or contemplated in this Ordinance and the regulations.

(2) The Administration shall cause the books and accounts of the fund to be balanced up to the thirty-first day of March in every year, and balance-sheet to be prepared, showing the assets and liabilities of the fund at the date when the balance-sheet is framed.

##### Quinquennial Valuation of Fund.

† 19. (1) The fund shall be valued as at the thirty-first day of March, 1932, and every five years thereafter by an actuary. The actuary shall report direct to the Administration, which shall send a copy of such report to each board and shall submit such report to the Provincial Council. The actuary shall in his report state the data and processes used in his investigation and valuation. He shall separately value the assets and liabilities of the fund, and shall declare any surplus or deficiency which appears thereon, shall state his opinion why that surplus or deficiency (as the case may be) has arisen and as to the steps which in his opinion should be taken to deal with it.

(2) If the actuary's valuation discloses a substantial surplus beyond the requirements likely to arise under this Ordinance or any amendment thereof, the benefits shall be increased or the contributions shall be reduced in such manner as the Provincial Council may direct. If the actuary's valuation discloses a substantial deficiency, the deficiency shall be met, if necessary, in such manner as the Provincial Council may direct.

Provided that no person to whom a pension has been granted shall, in the case of an annuity, have it reduced, or in the case of a gratuity, be called upon to repay any portion thereof.

Provided further that the contributions by the Authority shall never be at a lower rate than is for the time being prescribed as payable by officers.

*Section twenty-five of Ordinance No. 8 of 1929 provides:—*

##### When Contributions Payable to Administration.

25. Every deduction made from a hospital officers' emoluments in respect of contributions to the fund and every payment made by a hospital officer in respect of sums due to the fund under the provisions of this Ordinance shall be paid over by a board to the Administration so as to be received by the Administration not later than the last day of the month in which such deductions or payments are made.

\* As amended by section *fifteen* of Ordinance No. 8 of 1929.

† As amended by section *sixteen* of Ordinance No. 8 of 1929.

**Funds to be Administered by Administration.**

20. The business of the fund shall be conducted by the Administration, and the costs of administering the fund and of any investigations and matters incidental thereto shall be borne out of revenue.

**GENERAL.****Period of Employment for Pension Purposes.**

21. (1) The period of employment in respect of which a pension shall under this Ordinance be reckoned, except as specially provided for in section *ten*, shall be continuous.

(2) A continuous period of employment shall include the time spent—

(a) on actual duty;

(b) on authorized leave of absence;

(c) under suspension if followed by reinstatement in the same or another office or post.

(3) A continuous period of employment shall not be regarded as interrupted by authorized leave of absence without pay, but the time spent on such leave shall not be reckoned in calculating a pension unless the officer has contributed for such period to the fund; save in respect of the continuous employment prior to the fixed date of officers who have elected to contribute under the provisions of section *five*.

**Officers re-employed—Annuity to Cease or be Reduced during Period of Re-employment.**

\*22. If any officer be granted an annuity under this Ordinance and be thereafter employed with his own consent in the Public Service or under the Railways and Harbours Administration or any Provincial Administration or under the Administration of the Mandated Territory or under any board then while that subsequent employment continues the annuity shall cease if the emoluments of his office in such subsequent employment be equal to or greater than the emoluments of his office or post previous to the grant of the annuity. If the emoluments of his office in such subsequent employment be less than the emoluments of his office or post previous to the grant of the annuity, so much of the annuity as may not exceed the difference between those emoluments shall be payable. On the termination of the said subsequent employment the whole annuity shall again become payable.

**Benefits to Permanent Non-Pensionable Officers.**

+23. (1) An officer who is not eligible for membership of the fund established by this Ordinance and for whom no pension provision is made, in any other law, and who has held for a period of at least two years an office or post described in the schedule to this Ordinance may, on retirement upon the grounds of superannuation, ill-health, reorganization or retrenchment, be paid a gratuity equivalent to four per cent. of the emoluments drawn by him during the period of his continuous service.

The terms "emoluments" and "continuous service" shall be taken to mean such emoluments and such service as would be taken into account in computing the pension of a pensionable officer.

(2) The gratuities shall be paid by the Authority; provided that any portion of a gratuity payable in respect of service in a provincial hospital prior to the 1st day of January, 1929, shall be paid out of revenue anything to the contrary in this sub-section notwithstanding.

(3) Such officers shall retire at the ages at which they would be required to retire if they were contributors to the fund established by this Ordinance.

**Pensions, etc., not Assignable or Executable.**

‡24. No pension, or right to a pension, shall be capable of being assigned or transferred or otherwise ceded, or of being pledged or hypothecated, nor shall the same or any contributions made by an officer be liable to be attached or subjected to any form of execution under a judgment or order of a court of law, and in the event of the beneficiary attempting to assign, transfer, or otherwise cede or to pledge or hypothecate a pension or right to a pension, payment of the same may be withheld, suspended, or entirely discontinued, if the Administration so determines; provided that the Administration may before payment of any annuity or gratuity is made to an officer, deduct any sums which may be due to the Authority by such officer and shall pay any such sum to the Authority.

**How Pensions Affected by Insolvency.**

25. (1) If the estates of any officer in receipt of an annuity is sequestrated or surrendered or assigned for the benefit of his creditors the annuity shall

\* As amended by section *seventeen* of Ordinance No. 8 of 1929.

† As amended by section *eighteen* of Ordinance No. 8 of 1929.

‡ As amended by section *nineteen* of Ordinance No. 8 of 1929.

forthwith determine; provided that in any such case, all or any part of the annuity may be paid to or for the benefit of all or any of the following persons, namely, such officer, his wife or any minor children, or failing a wife or minor children to any children or other relatives or persons dependent on him for maintenance. If the payment is to such officer it shall be for his own personal use and may not in any way be attached or appropriated by the trustee in insolvency or by his creditors, anything to the contrary notwithstanding in any law relating to insolvency.

(2) Whenever an annuity has determined under this section it shall be revived on rehabilitation of the insolvent and he shall receive an annuity at the same rate and under the same conditions as before the sequestration, surrender, or assignment together with any arrears that may be due.

#### **Pensions on Conviction.**

26. (1) If an officer in receipt of an annuity is convicted before any court of any crime or offence, and is sentenced therefor to death or to any term of imprisonment exceeding twelve months without the option of a fine, the annuity shall cease to be paid to such officer; provided that the annuity or any portion thereof may during such persons' imprisonment be paid to or for the benefit of his wife or minor children or, failing a wife or minor children, to any children or relative or other persons dependent on him, and the selection of such person or persons shall be in the discretion of the Administration.

(2) Whenever the payment of any annuity has ceased under sub-section (1) of this section it shall be revived on the discharge of the pensioner from prison and he shall receive the annuity at the same rate and under the same conditions as before his imprisonment.

#### **Power to Reduce or Suspend Pensions.**

27. If any retired officer be found to have made wilfully a false statement for the purpose of obtaining a pension knowing the statement to be false then the Administration may order that the right to any pension to which he has become entitled, or any annuity of which he is in receipt shall be suspended, reduced or forfeited; provided that he shall not receive owing to the exercise of the powers of this section less, in the case of an annuity, than the annual value calculated actuarially of any sum contributed by him or less, in the case of a gratuity, than the actual sum contributed by him in accordance with this Ordinance.

#### **Commutation of Annuities.**

\*28. The Administration may at the request of the recipient and subject to the production of a satisfactory certificate by a medical officer commute such portion of any annuity as does not exceed one-third thereof by a single cash payment calculated actuarially according to the period for which the recipient may be expected to draw the annuity. In the event of the retirement taking place before the recipient has attained the prescribed age for retirement, no greater sum shall be paid by the Authority than would in the ordinary course be so paid if the annuity had not been commuted and the recipient had lived to attain the age from which the annuity would be paid out of the fund.

#### **When Sections Sixteen or Seventeen do not apply.**

29. If under the provisions of the Workmen's Compensation Act No. 25 of 1914 or any amendment thereof an officer or his dependents as therein defined obtains compensation as therein defined or if at common law any officer or his dependents obtain damages in respect of any such circumstances as are described in section *sixteen* or *seventeen* of this Ordinance then the provisions of the said section *sixteen* or *seventeen* shall not apply.

#### **Section Thirty-one of Ordinance No. 13 of 1919 not to Apply to Certain Officers Appointed After the Fixed Date.**

30. The provisions of this Ordinance shall apply to every officer appointed on or after the fixed date to a post described in the schedule to this Ordinance as nursing orderly or male nurse. Such officers shall not be entitled to receive on retirement the benefits prescribed in sub-sections (1) and (2) of section *thirty-one* of the Transvaal Hospital Nurses' Pensions Ordinance, 1919.

#### **Providing for Refund of Moneys Paid out in the Case of Discharged Officers Reinstated in an Office or Post.**

†31. Any officer who after ten years' continuous employment is compelled to retire and is subsequently reinstated may in the case of a hospital officer on the recommendation of a board and subject to the approval of the Admini-

\* As amended by section *twenty* of Ordinance No. 8 of 1929.

† As amended by section *twenty-one* of Ordinance No. 8 of 1929.

stration and in the case of a school board officer on the recommendation of the Administration, and subject to the approval of the Provincial Council, during the period for which he was not employed be deemed to have been absent on leave without pay and may resume his contributions to the fund, provided that he refunds all moneys received by him on the occasion of his retirement, together with such interest as the Administration may decide but shall not be permitted to contribute to the fund in respect of the period during which he was not employed.

32. —*Repealed by section ten of Ordinance No. 4 of 1934.*

**Providing for Recognition of Service of Officers Transferred from Certain Services.**

\*33. (1) Any person who has been serving in the Public Service of the Union, or under any Provincial Administration or under the Administration of the Mandated Territory and who is transferred from such service to an office or post described in the schedule to this Ordinance and whose age on transfer is under forty years shall contribute to the fund at the scales prescribed in section *three*.

(2) Any person transferred as aforesaid whose age on transfer is forty years or over may, within three months after the date of his transfer, elect to contribute to the fund but it shall not be obligatory upon him to do so.

(3) Any male person transferred as aforesaid whose age on transfer is fifty years or over, and any female person transferred as aforesaid whose age on transfer is forty-five years or over may within three months after the date of his transfer elect to contribute to the fund notwithstanding anything contained in paragraph (b) of sub-section (3) of section *three*; provided that such person is allowed to reckon service as provided under the next succeeding sub-section, and the period of service so allowed to count together with the period of service from the date of transfer to the prescribed date of retirement amount to a period of not less than ten years; provided further that any person who elects to contribute under this or the preceding sub-section shall make contributions in accordance with the scales prescribed in section *three*, and pay at the end of the month in which he notifies his intention to contribute all contributions due in respect of any period within which under either sub-section, he has been making his election, notwithstanding anything to the contrary in this Ordinance or the Principal Ordinance contained.

(4) Any person who is transferred as aforesaid shall be allowed to reckon his service in the Public Service of the Union or under any Provincial Administration or under the Administration of the Mandated Territory, or a portion of it, as continuous with his future service; provided that the officer's own contributions at the prescribed rate and the contributions which would have been made from revenue or by a board in respect of such service shall be paid by or on behalf of the officer together with interest at the rate of five per cent. per annum compounded annually up to the date of payment.

(5) If an officer is transferred to the Public Service of the Union or the Service of any Provincial Administration or the Administration of the Mandated Territory the Administration may pay to the Treasury, or the Administration of the other Province or Mandated Territory as the case may be, on behalf of such officer an amount not greater than double his contributions together with interest at five per cent. per annum compounded annually.

**Regulations.**

34. The Administrator may make regulations not inconsistent with the provisions of this Ordinance for the efficient carrying out of the objects of this Ordinance.

**Power to Add to, Alter, or Amend Schedule.**

35. The Administrator may at any time and from time to time by proclamation in the *Provincial Gazette* add to, alter, or amend the schedule to this Ordinance.

**Saving as to Gratuity Already Paid.**

36. Notwithstanding anything in this Ordinance contained no period of service for which a pension has already been received by an officer shall be reckoned as service for pension purposes.

**Short Title and Date of Operation.**

†37. This Ordinance may be cited for all purposes as the Transvaal Hospital and School Board Officials Pensions Ordinance, 1927, and shall commence and come into operation on a date fixed by proclamation in the *Provincial Gazette*.

\* As amended by section *eleven* of Ordinance No. 4 of 1934.

† This date is 1st October, 1927.



## SCHEDULE.

## OFFICES AND POSTS WHICH SHALL BE PENSIONABLE.

<i>Barberton Hospital.</i>		
Secretary.		
<i>Boksburg Hospital.</i>		
House Surgeon.	Typist.	Laundress.
Secretary-Superintendent.	Storekeeper.	Assistant Laundress.
Clerk.	Seamstress.	Cook.
Clerical Assistant.	Assistant Seamstress.	Assistant Cook.
<i>Germiston Hospital.</i>		
Secretary.	Cook.	Assistant Cook.
Typist.		
<i>Klerksdorp Hospital.</i>		
Cook.		
<i>Krugersdorp Hospital.</i>		
Secretary.	Cook.	Assistant Cook.
Typist.		
<i>Johannesburg Hospital.</i>		
Superintendent.	Assistant Engineer.	Sterilizer Attendant.
Chief Clerk and Accountant.	Electrician.	Telephone Attendant.
Cashier.	Mechanician.	Laundry Checker.
Clerk.	Lay Assistant.	Kitchen Superintendent.
Clerical Assistant.	X-ray Assistant.	Cook.
Typist.	House Steward.	Assistant Cook.
Almoner.	Masseur.	Nursing Orderly.
Senior Resident Medical Officer.	Storeman.	Male Nurse.
Chief Dispenser.	Compound Manager.	Seamstress.
Assistant Dispenser.	Assistant Compound Manager.	Assistant Seamstress.
Engineer.	Laundry Superintendent.	
<i>Pietersburg Hospital.</i>		
Secretary.	Cook.	
<i>Pretoria Hospital.</i>		
Superintendent.	Radiographer.	Cook.
Resident Secretary.	Assistant to Radiographer.	Seamstress.
Chief Clerk.	Assistant Radiographer.	Assistant Seamstress.
Clerical Assistant.	Masseur.	Boiler Attendant.
Typist.	Storekeeper.	Male Nurse.
Dispenser.	Telephone Operator.	Nursing Orderly.
Assistant Dispenser.		
<i>School Boards.</i>		
Secretary.	Clerk.	Typist.

**No. 15 of 1927.—Shop Hours Further Amendment.—Repealed by section five of Ordinance No. 19 of 1928.**

**No. 16 of 1927.—Local Authorities Rating Amendment.—Repealed by Ordinance No. 13 of 1928.**

**No. 17 of 1927.—Transvaal Teachers' Pensions Amendment.—Repealed by Ordinance No. 5 of 1916.**

*Section 1.—Defines Principal Ordinance.*

*Section 2.—Contains certain provisions regarding contributions by officers to the fund. For the full text of the section, as amended by Ordinance No. 19 of 1940, see immediately after section six of the revised print of the Principal Ordinance.*

*Section 3.—Making provision for contributions by the Administration is now also embodied in the revised print of the Principal Ordinance immediately after the preceding section. Amended by Ordinance No. 19 of 1940.*

*Section 4.—Amends section two of the Principal Ordinance.*

*Section 5.—Amends section three of the Principal Ordinance.*

*Section 6.—Amends section four of the Principal Ordinance.*

*Section 7.—Amends section six of the Principal Ordinance.*

*Section 8.—Amends section seven of the Principal Ordinance.*

*Section 9.—Amends section eight of the Principal Ordinance.*

*Section 10.—Contains new provisions for the retiring age of female officers and is embodied in the revised print of the Principal Ordinance immediately after section eight. This section also amends section nine of the Principal Ordinance.*

*Section 11.—Amends section fourteen of the Principal Ordinance.*

*Section 12.—Amends section eighteen of the Principal Ordinance.*

*Section 13.—Amends section twenty of the Principal Ordinance.*

*Section 14.—Amends section twenty-two of the Principal Ordinance.*

*Section 15.—Amends section twenty-four of the Principal Ordinance.*

*Section 16.—Amends section twenty of Ordinance No. 15 of 1918.*

*Section 17.—Extends the application of section 20 of Ordinance No. 15 of 1918 to transferred teachers. Section embodied in the revised print of the Principal Ordinance and follows on section two of Ordinance No. 15 of 1918 and 19 and 20 of the same Ordinance as incorporated after section thirty-six of the Principal Ordinance.*

*Section 18.—Provides for the re-admission to the fund of transferred officers and is embodied in the revised print of the Principal Ordinance immediately after section seventeen of the Ordinance.*

*Section 19.—Makes provision for contribution to the fund by officers transferred to or from the Public Service, and is embodied in the revised print of the Principal Ordinance immediately after section eighteen of this Ordinance.*

*Section 20.—Short Title.*

**No. 18 of 1927.—Motor Vehicle Amendment.—Repealed by Ordinance No. 17 of 1931.**

No. 19 of 1927.]

[Assented to 30th July, 1927.]

**AN ORDINANCE**

**To provide for the Establishment of a Roads Fund and for matters incidental to the Construction and Maintenance of Roads, including the Imposition of Increased Taxation in respect of Motor Vehicles.**

*(English copy signed by Governor-General.)*

BE IT ENACTED by the Provincial Council of Transvaal as follows:—

**Definitions.**

1. In this Ordinance unless inconsistent with the context:—

“Administrator” shall mean the officer appointed under section *sixty-eight* of the South Africa Act, 1909, acting on the authority of the Executive Committee.

“District” shall mean the area for which a road board has been constituted.

“Provincial road” shall mean any public road as defined in the Roads Ordinance 1912 which has been proclaimed as such by the Administrator in the *Provincial Gazette*.

**Establishment of Fund.**

2. There shall be established a roads fund (hereinafter called the fund), which fund shall be used for the construction and maintenance of Provincial roads and for the payment of interest and redemption charges on capital funds applied to the construction of such roads. The amount of such capital funds to be borrowed in any one year shall not exceed the sum of £60,000.

*Section one of Ordinance No. 10 of 1932 provides:—*

**Suspension of Payment.**

1. Notwithstanding anything contained in the Roads Fund Ordinance, No. 19 of 1927 (hereinafter referred to as the principal law) there shall be paid from the Provincial Revenue Fund into the Roads Fund in respect of the financial year 1932-33 such sum as shall be required during the said period for the maintenance of Provincial roads as provided in sub-section (b) of section *two* of the Roads Fund Amendment Ordinance, No. 14 of 1928; provided that the Administrator may in his discretion pay any further sum into such fund in respect of the said period for the construction of Provincial roads.

**Monies to be Credited to Fund.**

\*3. (1) There shall be paid from the Provincial Revenue Fund into the fund the following minimum amounts in respect of the financial years stated:—

1927-28	£87,500.
1928-29	100,000.
1929-30	110,000.
1930-31	117,500.
1931-32	125,000.
1932-33	132,500.
1933-34	140,000.
1934-35	147,500.

During the financial years 1935-36 and 1936-37 and in the following financial years until such time as otherwise determined by the Provincial Council the amount shall be £155,000.

(2) If the amount of revenue paid to and retained by the Administrator under the provisions of section *seven* exceed in any year one-half of the amount so collected in respect of licences issued to persons residing outside the area of jurisdiction of a local authority by more than the amount specified in sub-section (1) hereof as required to be paid into the fund in respect of that year, the amount by which the amount so specified is exceeded shall also be paid into that fund from the Provincial Revenue Fund.

\* As amended by section *two* of Ordinance No. 10 of 1932.

**Charges Against Fund.**

4. (a) There may be charged against the fund:

(i) the moneys required to be provided for interest and redemption charges on loans raised specifically for the construction of Provincial roads on a twenty years' basis of repayment;

(ii) an amount of 8 per cent. per annum on the cost of construction of such roads from the date of the completion of such construction which shall be applied to the maintenance of such roads; provided that any part of such amount not spent in any one year may be carried over as a balance to the following year, but may not be applied to any other purpose.

(b) Any sums remaining in the fund after the moneys required to be provided under sub-section (a) of this section have been provided may be applied to the construction of Provincial roads; provided that an amount of 8 per cent. per annum on the cost of construction of such roads from the date of completion of such construction shall also be charged against the fund, and shall be applied to the maintenance of such roads.

**Control of Fund.**

5. The fund shall be controlled by the Administrator.

**Amendment of Section two of Ordinance No. 6 of 1915.**

6. Section two of the Motor Vehicle Ordinance 1915 as amended shall be and is hereby amended by the deletion of sub-sections (4) and (6) and the substitution therefor of the following new sub-sections:—

"(4) The owner of every motor vehicle so registered shall obtain from the registering authority a certificate of registration in respect of which he shall be required to pay for the benefit of the Provincial Revenue Fund, if such vehicle is a motor-cycle a fee of ten shillings and if it is any motor vehicle other than a motor-cycle a fee of one pound. Such certificate of registration shall not require renewal and on production of such certificate by such owner to the issuer of licences and upon payment of the licence fee hereinafter provided there shall be issued to him a licence for the calendar year or the portion thereof next ensuing. Provided that no such licence need be taken out until the expiry of any motor vehicle licence lawfully issued by any local authority under any law or regulation in force prior to the commencement of this Ordinance. Whenever it shall appear to the satisfaction of the registering or licensing authority that the certificate or licence issued to any person has been lost or destroyed it shall be competent for such authority, on payment of a fee of two shillings and sixpence, to issue a duplicate of such certificate or licence with the word 'duplicate' written thereover.

(6) The annual licence fees in respect of motor vehicles shall from and after the commencement of this Ordinance be as follows:—

	£	s.	d.
(a) For every motor-cycle without side-car ... ..	1	0	0
(b) For every side-car or similar attachment ... ..	0	10	0
(c) (1) For every motor-car a basic charge of ... ..	2	0	0
(2) For every unit of horse-power or portion thereof ... ..	0	1	0
(3) For every 100 lb. of weight to the nearest 100 lb. ... ..	0	2	0

In calculating the horse-power of a motor-car the formula known as the Dendy Marshall formula shall be followed viz.:—

$$\frac{D^2 \times S \times N}{200,000} = \text{horse-power.}$$

In which formula:—

D signifies=Diameter of cylinder in millimetres;

S signifies=Length of piston stroke in millimetres;

N signifies=Number of cylinders.

For electric motor-cars the horse-power shall be calculated according to the normal output of the battery. Before issuing a new licence for a motor-car the licensing authority may require production of such car or of a certificate of the weight and horse-power thereof by an expert approved by such authority. In case of dispute the decision of the Government Electrical Engineer shall be final.

7.—*Repealed by Ordinance No. 17 of 1931.*

**Short Title.**

8. This Ordinance may be cited for all purposes as the Roads Fund Ordinance 1927 and shall come into operation on a date to be fixed by the Administrator by Proclamation in the *Provincial Gazette*.

**No. 20 of 1927.—Pounds Amendment.**

*Section 1.—Amends section three of the Pounds Amendment Ordinance No. 10 of 1926.*

**No. 2.—Short Title.**

1928.

**No. 21 of 1927.—Education Act Amendment.****No. 1 of 1928.—Additional Appropriation (1927-1928).****No. 2 of 1928.—Appropriation (Part 1927-1928).****No. 3 of 1928.—Motor Vehicle Amendment.—Repealed by Ordinance No. 17 of 1931.****No. 4 of 1928.—Local Government Amendment.—Repealed by Ordinance No. 17 of 1939.****No. 5 of 1928.—Vermin Destruction Amendment.—Principal Ordinance No. 19 of 1925.***Section 1.—Amends section one of the Principal Ordinance.**Section 2.—Amends section three of the Principal Ordinance.**Section 3.—Amends section six of the Principal Ordinance.**Section 4.—Repeals and substitutes section eleven of the Principal Ordinance.**Section 6.—Short Title.***No. 6 of 1928.—Education Act Amendment.****No. 7 of 1928.—Roads Amendment.—Repealed by Ordinance No. 9 of 1933.****No. 8 of 1928.—Local Government (Noxious Weeds) Amendment.—Repealed by Act No. 43 of 1937.****No. 9 of 1928.—Appropriation (1928-1929).****No. 10 of 1928.**

[Assented to 1st May, 1928.]

**AN ORDINANCE****To provide for the Imposition of Taxes on Persons and Incomes of Persons resident in the Province.***(Date of Operation 9th May, 1928.)**(English copy signed by Governor-General.)*

BE IT ENACTED by the Provincial Council of Transvaal as follows:—

**Definitions.****\*1.** In this Ordinance, unless inconsistent with the context:—“Administrator” shall mean the officer appointed under section *sixty-eight* of the South Africa Act 1909 and any amendment thereof acting on the authority of the Executive Committee.

“Commissioner” shall mean the Commissioner for Inland Revenue or any person lawfully acting in that capacity or on his behalf.

“Due date” shall mean the date on which any tax imposed by this Ordinance is due.

“Income” shall bear the meaning assigned thereto in sub-section (1) of section *seven* of the Income Tax Act and shall include the amount of any dividends received by or accrued to any person during the year of assessment; and for the purposes of this Ordinance the income of a married woman shall be included in that of her husband.

“Income Tax Act” shall mean the Income Tax Act, 1925 (Act No. 40 of 1925) as amended from time to time or any Act substituted therefor.

“Income Tax payer” shall mean any person who, under the provisions of the Income Tax Act, is required to render a return of his income in respect of the year or portion of the year ended the 30th June immediately preceding the due date as hereinafter defined or to whom a prescribed form of return of income has been issued calling upon him to render such return whether or not such person is liable for income tax; and shall include any person in respect of whose income a return is called for through an agent or representative tax payer as defined in section *forty-eight* of the Act aforesaid, but shall not include any person not liable for income tax to whom a prescribed form of return of income may have been issued after the date prescribed for the payment by persons who are not income tax payers of the tax imposed in sub-section (1) of section *two* of this Ordinance.

“Liable for Income Tax” shall mean liable to pay Normal or Super Tax, or both Normal and Super Tax, under the provisions of the Income Tax Act in respect of the year of assessment or any portion thereof.

“Resident in the Province” shall mean resident within the Province of Transvaal for not less than ninety consecutive days during the year of assessment; provided that any person who after having resided within the Province of Transvaal for not less than ninety consecutive days during such year resides within any other Province of the Union for not less than ninety consecutive days during the same year of assessment, and is liable for any tax on persons or the incomes of persons under any law in force in such other Province shall not be regarded as ‘resident in the Province’ for the purposes of this Ordinance. A period of residence by any taxpayer shall be deemed to have been for a number of consecutive days notwithstanding

\* As amended by section *two* of Ordinance No. 14 of 1938 and section *one* of Ordinance No. 5 of 1939

the temporary absence of such person from the Province during any portion of such period and to have been continuous during that period.

“Revenue Officer” shall mean any Receiver of Revenue or any other officer acting as the authorized collector of inland revenues for any area shall bear the meaning assigned thereto in sub-section (1) of section seven of the Income Tax Act and

“Year of Assessment” shall mean the period of twelve months ending on the 30th June immediately preceding the due date.

#### Levy of Tax and Rates.

\*2. Subject to the limitations and exemptions mentioned in this Ordinance there shall be charged, levied, and collected annually:—

(1) A tax upon every person resident in the Province twenty-one years of age and over at the following rates:—

(a) If such person is married on the 30th June immediately preceding the due date £1 10s.

(b) If such person is unmarried and is under the age of twenty-five years on the 30th June immediately preceding the due date £1 10s.

(c) If such person is unmarried and is of the age of twenty-five years or over on the 30th June immediately preceding the due date—

(i) If his income for the year of assessment was under £100: £1 10s.

(ii) if his income for the year of assessment was £100 or over: £2 5s.

(2) A tax upon the income of every person resident in the Province liable for Income Tax at the following rates:—

(a) If such person is married on the 30th June immediately preceding the due date 15 per cent., calculated on each completed shilling, of the amount of normal and/or super-tax paid or payable under the Income Tax Act in respect of the year of assessment.

(b) If such person is unmarried on the 30th June immediately preceding the due date 22½ per cent., calculated on each completed shilling, of amount of normal and/or super-tax paid or payable under the Income Tax Act in respect of the year of assessment.

#### Tax on Income Recoverable from Deceased Estates.

(3) If any person resident in the Province dies prior to the prescribed date for payment of tax by persons who are not income taxpayers, only the tax payable under sub-section (2) of section two shall be a debt due by the estate of such person.

#### Widows, Widowers, Divorced and Separated Persons.

†3. For the purposes of this Ordinance a widow, widower, divorced person or a person separated under judicial order or written agreement shall be deemed to be unmarried:

Provided that any person who—

(a) supports a minor child of his own, or a minor step-child, or a minor child adopted by himself under the Children's Act, 1937;

(b) supports a person who is incapable by reason of some infirmity of maintaining himself, provided such person is his own child or step-child, or was, as a minor, adopted by him under the Children's Act aforesaid;

(c) is the sole supporter of a parent, shall be deemed to be married.

#### When Due and to Whom Payable.

†4. (1) Any tax levied under the provisions of this Ordinance shall be due on the first day of July in each and every year and shall be paid to the revenue officer of the district in which the taxpayer resides, or at such other place as the Commissioner may prescribe; provided that in the event of the death or insolvency of any person during the year of assessment any tax payable by such person shall be regarded as due and payable on the date of death or insolvency as the case may be.

(2) Any person who fails to pay the tax due under sub-section (1) of section two of the Ordinance on or before the prescribed date in any year shall pay in addition to the tax a penalty calculated at the rate of 5 per cent. of the amount of the tax for every month or part of a month during which such taxpayer is in default.

(3) Any person who fails to pay the tax due under sub-section (2) of section two of the Ordinance on or before the prescribed date shall pay in addition to the tax a penalty calculated at the following rates:—

If the tax does not exceed £10 at the rate of 30 per cent. per annum.

If the tax exceeds £10 but does not exceed £25 at the rate of 20 per cent.

per annum.

\* As amended by section one of Ordinance No. 14 of 1933 and sections three and four of Ordinance No. 14 of 1938.

† As substituted by section five of Ordinance No. 14 of 1938.

‡ As amended by section one of Ordinance No. 20 of 1930, section four of Ordinance No. 14 of 1933, and section six of Ordinance No. 14 of 1938.

If the tax exceeds £25 but does not exceed £50 at the rate of 15 per cent. per annum.

If the tax exceeds £50 at the rate of 12 per cent. per annum. calculated upon each completed one pound of the amount of the tax over the period in which such person is in default.

(4) The amount of any penalty or penalties imposed under the provisions of this section shall not exceed the amount of the relative tax or taxes.

(5) The prescribed date shall be—

(a) in the case of persons who are not income tax payers, the fourth day of October in each year, provided that the Commissioner may, by public notice, extend that date to a date not later than the tenth day of October in any year;

(b) in the case of income tax payers the date notified by the Commissioner in any notice of assessment or of additional assessment issued to such income tax payers;

(6) If the Commissioner or any revenue officer has reason to believe that any tax payable under this Ordinance by any person resident in the Province may not be recovered, he may prior to the date on which such tax is due assess the tax payable by such person and prescribe any period within which such tax shall be paid.

#### Declarations.

5. (1) Every person liable to a tax under this Ordinance shall furnish to the revenue officer a declaration on the prescribed form giving such particulars as may be required to determine his liability to such tax.

\* (2) For the purpose of verifying the amount of tax payable by any person the revenue officer may call upon such person to produce for his inspection any Union Income Tax receipt or other document required to establish the amount of tax payable under this Ordinance.

(3) Every declaration or other document rendered for the purpose of this Ordinance shall be treated as confidential and shall not be used or divulged in any way whatsoever except for the carrying out of the provisions of this Ordinance and no access thereto for any other purpose shall be permitted.

(4) Should any person fail, neglect or refuse to furnish any declaration or other documentary proof prescribed by this section, he shall be guilty of an offence and liable on conviction to the penalty prescribed in section *fourteen*.

#### Issue of Assessments to Income Tax Payers.

† 5*bis*. (1) The Commissioner shall cause to be issued to every income tax payer a notice of assessment of the amount payable by him in terms of this Ordinance and every such notice shall be conclusive as to the liability of such income tax payer for the amount stated therein.

(2) In cases where separate income tax returns are rendered under the provisions of section *thirty-nine* of the Income Tax Act, 1925, or any amendment thereof, the assessment and calculation of the tax payable under sub-section (2) of section *two* of this Ordinance shall be in accordance with the principals of the said Act.

(3) If at any time it appears that the amount properly chargeable under this Ordinance is less than the amount actually paid the Commissioner may refund the amount overpaid.

(4) If the amount paid under this Ordinance is found to be less than the amount properly chargeable the Commissioner shall issue a notice of additional assessment for the amount underpaid.

#### Failure to Make Declaration.

6. Any person may be required by a revenue officer to make a declaration on the prescribed form for the purpose of determining any liability under this Ordinance, and in the event of any person failing to make a declaration when required to do so, the revenue officer may assess the amount of tax payable by such person and the amount so assessed shall be final and conclusive as to the liability of such person under this Ordinance.

#### Duty of Employers to Furnish Returns.

†7. (1) It shall be the duty of any employer on demand to furnish to the revenue officer within such period as the revenue officer may require, a return on the prescribed form giving such particulars as may be required in regard to any person employed by him at the 30th June in any year. Should any employer fail to furnish the aforesaid return within the prescribed period or omit any essential particulars, he shall, in addition to the penalties prescribed in section *fourteen* be personally liable for any tax not recovered from any from any person whose liability would have been disclosed by such a return.

\* As amended by section *five* of Ordinance No. 14 of 1933.

† Added by section *seven* of Ordinance No. 14 of 1938.

‡ As amended by section *two* of Ordinance No. 20 of 1930 and section *six* of Ordinance No. 14 of 1933.

(2) In the event of any person being an employee failing to pay the tax or taxes due by him on or before the prescribed date it shall be competent for the Revenue Officer to advise the employer of the default of such person and the amount of tax or taxes and penalty payable by him, and thereupon such tax or taxes and penalty shall be a debt due by such employer for the purposes of section *nine*; provided that the employer shall have the right to deduct the amount paid by him from any amount which may be due or which may subsequently become due by him to such employee; provided further that the employer shall not be liable beyond the amount which may be due or become due by him to such employee.

#### Exemptions.

\*8. There shall be exempt from any tax imposed under this Ordinance—

(1) All females except those who are liable for Income Tax for the year of assessment; provided that any woman who marries during the year of assessment and who is liable for Income Tax for a period of less than one year, and any married woman who is liable for Income Tax by virtue only of section *forty-six* of the Income Tax Act, shall not be liable for the personal tax imposed in sub-section (1) of section *two*.

(2) (a) Any unmarried male adult who satisfies the revenue officer that his income during the year of assessment amounted to less than £50.

(b) Any married male adult who satisfies the revenue officer that his income during the year of assessment amounted to less than £150.

(c) Any male adult who is certified by the revenue officer of the district in which he resides to be in necessitous circumstances and unable to pay the tax or taxes due by him.

(3) Any male adult who, during the three months immediately preceding the due date, has attended as a whole-time student an educational institution recognised as such by the Union or Provincial Education Department, and is not liable for income tax for the year of assessment; provided that any person claiming exemption in terms of this sub-section shall apply to the revenue officer of the district in which he resides for a certificate of exemption in the prescribed form.

(4) Any leper, or mentally deficient person who is not liable for income tax for the year of assessment.

(5) Any male adult of sixty years of age or over at the date the tax becomes due who is not liable for income tax for the year of assessment.

(6) Natives as defined by section *nineteen* of the Natives Taxation and Development Act, 1925 (Act No. 41 of 1925) as amended from time to time.

(7) Any person resident in the Province who holds office in the Union as an official of any of His Majesty's Governments, other than the Government of the Union of South Africa, or of any other Government; provided such person is stationed in the Union for that purpose and is not ordinarily resident in the Union, and is not in receipt of income subject to taxation under the Income Tax laws of the Union; provided that the revenue officer shall issue a certificate of exemption to every person to whom exemption is granted under sub-sections (2) (c) and (3) of this section.

The Administrator may from time to time prescribe rules for the guidance of revenue officers in issuing certificates under this provision.

#### Recovery of Tax.

9. Any tax and/or penalty imposed under the provisions of this Ordinance shall be a debt due to the Provincial Revenue Fund of the Transvaal and may, when payable, be sued for and recovered by action in any court of competent jurisdiction by the Commissioner suing on behalf of the Administrator.

#### Fines.

10. All fines recovered for any offence under this Ordinance shall be paid into the Provincial Revenue Fund.

#### Prescribed Forms.

11. The Commissioner may from time to time prescribe any forms or declarations required for the purposes of this Ordinance.

#### Appointment and Duties of Agents.

†12. (1) In the case of any person absent from the Province and in any other case where he finds it necessary the Commissioner may declare any person having the management, control or custody of moneys or property belonging to such person to be the agent for such person.

(2) Every such agent as aforesaid, and the legal representative of any person, shall as such be subject to the same duties and responsibilities of such person,

\* As amended by section *seven* of Ordinance No. 14 of 1933, section *one* of Ordinance No. 5 of 1937 and section *eight* of Ordinance No. 14 of 1938.

† As substituted by section *nine* of Ordinance No. 14 of 1938.

and shall, to the extent of any income, moneys or property of which he has the management, control or custody, be liable for payment of any tax and penalty imposed by this Ordinance upon such person.

(3) In the case of a deceased or insolvent estate of any person, the duty of making returns and of paying any tax due under this Ordinance shall be upon the executor or other person appointed to administer such deceased estate, or the trustee of such insolvent estate as the case may be.

#### Payment of tax by instalments.

\*13. (1) Notwithstanding anything to the contrary in this Ordinance, any person liable for any tax imposed thereunder may make application to the revenue officer of the district in which he resides on or before the prescribed date in any year for an extension of time in which to pay his tax for the current year, or for permission to pay such tax in instalments, and if the revenue officer is satisfied that such person is unable to pay the tax by the prescribed date, he shall either grant an extension of time within which payment may be made to agree to accept payment in instalments in either case without penalty.

(2) If any person fails to comply with any condition upon which any extension or permission is granted in terms of sub-section (1), such extension or permission shall lapse and any amount of unpaid tax with penalty thereon calculated from the prescribed date shall become payable forthwith; provided that the revenue officer shall have the power to waive any penalties in any case in which he is satisfied that the taxpayer through no default of his own is unable to adhere strictly to the conditions upon which any extension or permission has been granted.

#### Penalties.

†14. Any person who wilfully makes a false declaration under this Ordinance shall be guilty of an offence and liable on conviction to a fine not exceeding twenty pounds or in default of payment to imprisonment with or without hard labour for a period not exceeding three months.

Any person who—

(a) fails or neglects to render any return or to furnish any information as and when required under this Ordinance;

(b) fails to pay the tax by the date prescribed; or

(c) fails to comply with the provisions of any regulation made under the provisions of this Ordinance shall be guilty of an offence and liable on conviction for a first offence to a fine not exceeding five pounds, or in default of payment to imprisonment for a period not exceeding one month, and on conviction for a subsequent offence to a fine not exceeding fifteen pounds, or, in default of payment, to imprisonment for a period not exceeding three months.

#### Regulations.

15. The Administrator may make regulations:—

(a) for prescribing the form of application for any certificate of exemption to be issued by the magistrate or resident justice of the peace under the provisions of section eight; and

(b) generally for the better carrying out of the objects and purposes of this Ordinance.

#### Repeal of Laws.

16. The following Ordinances shall be and are hereby repealed:—

The Poll Tax Ordinance, 1921.

The Poll Tax Amendment Ordinance, 1922.

The Poll Tax (Penalty) Ordinance, 1923.

The Poll Tax Amendment Ordinance, 1925.

The Poll Tax Amendment Ordinance, 1926.

#### Short Title.

17. This Ordinance may be cited for all purposes as the Personal and Income Taxes Ordinance, 1928.

**No. 11 of 1928.—Hawkers and Pedlars.—Repealed by Ordinance No. 4 of 1930.**

**No. 12 of 1928.—Transvaal Teachers' Pensions Amendment.**

*Section 1.—Defines Principal Ordinance as No. 5 of 1916.*

*Section 2.—Amends section three of the Principal Ordinance by the addition of a new sub-section (6).*

*Section 3.—Adds a paragraph to section 3 of the Principal Ordinance.*

*Section 4.—Amends section eight of the Principal Ordinance.*

*Section 5.—Amends section ten of the Principal Ordinance.*

*Section 6.—Amends section twenty-two of the Principal Ordinance.*

*Section 7.—Amends section eighteen of Ordinance No. 17 of 1927.*

\* As substituted by section ten of Ordinance No. 14 of 1938.

† As amended by section four of Ordinance No. 20 of 1930.



*Section 8.—Short Title.*

**No. 13 of 1928.—Local Authorities Rating.—Repealed by Ordinance No. 20 of 1933.**

**No. 14 of 1928.—Roads Amendment.—Repealed by Ordinance No. 9 of 1933.**

**No. 15 of 1928.]**

[Assented to 14th July, 1928.]

### A PRIVATE ORDINANCE

**To enable Johannesburg to be called a City and to alter the title of the Council of the Municipality of Johannesburg.**

*(Date of Operation 5th September, 1928.)*

*(English copy signed by Governor-General.)*

WHEREAS IT IS DESIRABLE, in the interest of the community of Johannesburg, to declare the Town of Johannesburg to be a City and to alter the name of the Council of the Municipality of Johannesburg from the "Town Council of Johannesburg" to that of the "City Council of Johannesburg".

BE IT ENACTED by the Provincial Council of Transvaal as follows:—

#### **Title of City of Johannesburg.**

1. The Town of Johannesburg shall be and is hereby designated and known as the City of Johannesburg:

#### **Title of City Council and Application of Ordinance No. 11 of 1926, etc.**

2. The title of the Council of the Municipality of Johannesburg shall be and is hereby altered from the "Town Council of Johannesburg" to the "City Council of Johannesburg" and the provisions of the Local Government Ordinance, No. 11 of 1926, and any amendment thereof, shall apply to the City Council of Johannesburg, so that wherever the words "Town Council" or "Council" in the said Ordinance are used, they shall be deemed to mean and include the City Council of Johannesburg, and wherever in any law or by-law, reference is made to the Town Council of Johannesburg, such reference shall be deemed to mean and to include the City Council of Johannesburg;

#### **Short Title and date of operation.**

3. This Ordinance may be cited for all purposes as the City of Johannesburg Ordinance (Private) of 1928, and shall come into operation on such date as the Administrator may by proclamation in the *Provincial Gazette* declare.

**No. 16 of 1928.—Education Act Further Amendment.**

**No. 17 of 1928.—Main Reef Road.—Repealed by Ordinance No. 12 of 1933.**

**No. 18 of 1928.]**

[Assented to 2nd August, 1928.]

### AN ORDINANCE

*(English copy signed by the Governor-General.)*

**To Provide for the Establishment, Maintenance and Management of Public Hospitals.**

BE IT ENACTED by the Provincial Council of Transvaal as follows:—

#### CHAPTER I.

#### *Introductory.*

#### **Commencement of Ordinance.**

1. This Ordinance shall come into operation on the first day of January, One thousand Nine hundred and twenty-nine save that all elections, appointments, proclamations, notices or regulations required or authorized by this Ordinance may be held, made or issued at any time after the promulgation hereof as far as may be necessary or expedient for the purpose of bringing this Ordinance into operation.

#### **Definitions.**

\*2. In this Ordinance if not inconsistent with the context—

"Administration" means the Transvaal Provincial Administration.

"Administrator" means the officer appointed under sub-section (1) of section *sixty-eight* of the South Africa Act 1909, and any amendment thereof of acting on the advice and with the consent of the Executive Committee of the Province.

"Aided-hospital" means a hospital in receipt of a grant-in-aid from the Administration prior to the commencement of this Ordinance.

"Board" means a hospital board constituted under section *eight* of this Ordinance.

\* As amended by section *one* of Ordinance No. 19 of 1930, section *two* of Ordinance No. 22 of 1931, section *two* of Ordinance No. 11 of 1936, section *one* of Ordinance No. 9 of 1942, section *one* of Ordinance No. 14 of 1943, and section *ten* of Ordinance No. 15 of 1943.

“Commencement of this Ordinance” means the date on which this Ordinance came into operation.

“contributor” means in relation to a meeting of contributors to any public hospital any person of the age of eighteen years and upwards who has contributed towards the funds of the board of such hospital—

(a) a sum of £10 or over in one amount at any time;

(b) a sum of £10 or over in any calendar year;

(c) a sum of ten shillings or over during the calendar year preceding such meeting of contributors;

provided that if such contribution is made by or on behalf of any corporation, local authority, company, association, club, society or other organisation or body of persons such body shall be entitled to one vote only at any meeting as aforesaid and provided further that for the purpose of receiving contributions the calendar year shall be regarded as having ended at twelve noon on the thirty-first day of December or if that day be a Sunday or a public holiday then at twelve noon on the thirtieth day of December.

“Council” means the Public Hospitals Advisory Council established by section two of the Public Hospitals Interim Control Ordinance, 1943.

“Free patient” means an in-patient (other than a patient who can, in terms of section forty-six of this Ordinance, be granted relief free of charge or at a reduced rate as a privileged patient who receives from a board of any public hospital relief free of charge and in respect of whom subsidy is payable in terms of sub-section (1) of section fifty-two of this Ordinance and includes an in-patient who receives relief free of charge from a board constituted under paragraph (e) of sub-section (2) of section eight provided that no person shall be admitted to a central or a first-grade hospital as a free patient unless a certificate in a form prescribed by the Administrator has been issued in respect of that person by the almoner or other officer specially appointed for the purpose to the effect that that person is not in a position to contribute towards the cost of hospital treatment.

“Gazette” means *The Official Gazette of the Province of Transvaal*.

“Honorary Visiting Medical Officer” means a registered medical or dental practitioner, who subject to the approval of a board, holds any medical or dental appointment at a public hospital and is not in receipt of any salary, fees or other emoluments from such board in respect of the professional services rendered by him in connection with such appointment.

“Hospital” means any institution, premises or place where persons are given medical or surgical care and curative treatment and shall include a convalescent home or a maternity home or an institution for the nursing of persons requiring such treatment outside the precincts of an institution specifically set apart for the provision of medical and surgical treatment, but administered as part of an institution so set apart, and shall further include any other institution subsidiary to or the auxiliary of a hospital whether situate within or without the precincts thereof and any institution which is with the Administrator's consent exclusively used as a chronic sick home for European children under the age of nineteen years.

“Hospital Committee” means any board or committee of management of any Provincial hospital or aided hospital.

“Indoor relief” means relief given to any person within the precincts of a public hospital.

“in-patient” means a patient who is not an out-patient but receives from a board food and/or accommodation as well as treatment in a public hospital.

“Local Authority” means a town council or a village council constituted under the Local Government Ordinance 1926 or any amendment thereof.

“Municipality” means the area or district placed under the control and jurisdiction of a local authority.

“out-patient” means a patient who is not an inmate of a public hospital but who attends thereat for treatment but does not include a patient who attends for treatment at a venereal or tuberculosis clinic organized by a local authority under the provisions of the Public Health Act 1919 or any amendment thereof, or under any other law.

“part-paying patient” means an in-patient who is charged fees at less than the full tariff rate for general wards but does not include a member of a sick fund or benefit society who is charged at special contract rates or a privileged patient.

“Pensions Ordinances” means the Transvaal Hospital Nurses' Pensions Ordinance, 1919 and any amendment thereof and the Transvaal Hospital and School Board Officials' Pensions Ordinance, 1927, and any amendment thereof.

“Privileged patient” means a person who, by reason of his being a member of a board or of the honorary or paid staff of a board or a dependent of such member, or who by reason of his being a medical student is in receipt of relief granted free of charge or at a reduced rate by a board under powers conferred by sub-section (3) of section forty-six of this Ordinance.



been referred to the council, constitute a board for such hospital in such manner as he shall think fit and may in such proclamation prescribe the composition, the number of members and the qualifications for membership, and the provisions of sections *nine* to *seventeen* (inclusive) of this Ordinance shall not apply to any board constituted in terms of this paragraph.

\**(e)* in the case of a hospital which is, with the Administrator's consent, exclusively used as a chronic sick home for European children under the age of nineteen years, from time to time constituted a board for such hospital in such manner as he shall think fit and shall in such proclamation prescribe the composition, the number of members, the qualifications for membership, the period of office of members and the manner of filling vacancies and the provisions of sections *nine*, *ten* and sub-sections (3) to (6) (inclusive) of section *eleven* shall not apply to any such board.

(3) Every board constituted as aforesaid shall under the name of the Hospital Board of.....be each and severally a body corporate with perpetual succession and shall by such name be capable in law of suing and being sued, of purchasing holding and alienating land, and generally of doing and performing such acts and things as bodies corporate may by law do and perform subject to the provisions of this Ordinance and any other law.

(4) Every such board may sue and be sued in the name of the chairman of the board for the time being.

(5) The members of every hospital committee constituted a board hereunder shall cease to hold office at the commencement of this Ordinance.

#### Appointment of Members.

†9. (1) The Administrator may fix and from time to time increase or decrease the number of members of any board and every such increase or decrease shall be notified by proclamation in the *Gazette* provided that the number of members for any board shall be either six or twelve save that in the case of the Johannesburg Hospital Board the number of members shall be eighteen.

(2) (a) One-third of the members of a board but in the case of the Elsie Ballot Hospital Board one-half of the members shall be appointed by the Administrator from among persons who shall have such qualifications as in the opinion of the Administrator are necessary or serviceable in connection with finance or business or some phase of hospital administration and work or who have had trained nursing experience provided that in respect of the Johannesburg and Pretoria Hospital Boards one of the members so appointed in each case shall represent the South African Railways and Harbours Administration.

(b) One-sixth of the board shall be appointed by the honorary visiting medical officers provided that where there are no such officers such members of the board shall be appointed by the Administrator but shall not hold office for longer than three years or after the appointment of one or more of such officers provided further that the provisions of this paragraph shall not apply to the Elsie Ballot Hospital Board.

(c) Save as is provided in the next succeeding paragraph one-sixth of the members of the board shall be appointed by such public bodies as may be approved by the Administrator from among persons qualified as prescribed in paragraph (a) hereof.

(d) In the case of the Johannesburg Hospital Board, to which the provisions of paragraph (c) hereof shall not apply, there shall be appointed as members of such board in addition to the members appointed under paragraphs (a) and (b) hereof the following:—

(i) two members appointed by the Johannesburg Town Council provided that such members need not be councillors;

(ii) one member appointed by the Transvaal Chamber of Mines;

(iii) one member appointed by the Johannesburg Chamber of Commerce;

(iv) one member appointed by the Council of the University of Witwatersrand;

(v) one member appointed by the Transvaal Agricultural Union; provided that in the event of any such bodies declining or failing to make any appointment hereunder the Administrator shall make such appointment.

(e) One-third of the members of a board— and in the case of the Johannesburg Hospital Board one-sixth of the members of such board—shall subject to the provisions of sub-sections (6) and (7) of section *thirteen* hereof be elected by the registered contributors from amongst their number at the annual general meeting of such contributors which shall be held as hereinafter provided subject to an amount equal to one-half per cent. of the expenditure of the board having been contributed to the funds of the board by them during the preceding year for every member so elected. If such contributors shall be unable or shall fail or neglect or refuse to elect members hereunder it shall be lawful for the remaining members of the board to elect such persons as members as shall

\* A<sub>1</sub> amended by section *two* of Ordinance No. 9 of 1942.

† A<sub>3</sub> amended by section *one* of Ordinance No. 7 of 1929, section *three* of Ordinance No. 11 of 1936 section *one* of Ordinance No. 20 of 1940, and section *one* of Ordinance No. 1 of 1941.

together with any members duly appointed or elected as hereinbefore provided make up the full number of members of the board provided that such members as may be elected by the remaining members shall retire from office at the next ensuing annual general meeting of contributors.

(3) Notwithstanding anything to the contrary in sub-sections (1) and (2) of this section contained the Administrator may by proclamation in the *Gazette* increase the number of members of a Board from six to nine or fix the number at nine; Provided that where the number of members has been so increased or fixed the number of members who must be appointed under paragraphs (a), (b), (c) and (e) of sub-section (2) of this section shall be five, one, one and two respectively.

#### Retirement of Members.

\*10. (1) Where under the provisions of section *nine* hereof—

(a) the number of persons appointed or elected by any appointing or electing body does not exceed one, such member shall hold office for a period of one year except the member appointed under paragraph (c) of sub-section (2) of the said section who shall hold office for a period of three years;

(b) there are two members so appointed or elected they shall hold office for a period of two years except that at the commencement of this Ordinance or whenever a new board is constituted after such commencement in terms of section *eight* (2) (a) or (b) one shall be appointed or elected for one year only;

(c) there are three members so appointed or elected they shall hold office for a period of three years except that at the commencement of this Ordinance or whenever a new board is constituted after such commencement in terms of section *eight* (2) (a) or (b) one shall be appointed or elected for a period of two years only and one for a period of one year only;

(d) there are four members so appointed or elected they shall hold office for a period of four years except that at the commencement of this Ordinance or whenever a new board is constituted after such commencement in terms of section *eight* (2) (a) or (b) one shall be appointed or elected for a period of three years only, one for a period of two years only and one for a period of one year only;

(e) there are six members so appointed they shall hold office for a period of three years except that at the commencement of this Ordinance or whenever a new board is constituted after such commencement in terms of section *eight* (2) (a) or (b) two shall be appointed for a period of two years only and two for a period of one year only;

provided that where more elective members are elected in one year than would normally be the case their order of retirement shall be determined by the contributors present at the annual general meeting of contributors so as to restore the normal rotation of retirement of members elected by contributors as provided herein.

(2) The members appointed under the provisions of paragraph (d) of sub-section (2) of section *nine* shall hold office for a period of three years except that at the commencement of this Ordinance one of the members appointed by the Johannesburg Town Council and the member appointed by the Johannesburg Chamber of Commerce shall hold office for a period of two years only and the members appointed by the council of the University of the Witwatersrand and by the Transvaal Agricultural Union shall hold office for a period of one year only.

(3) In the case of members elected by contributors, those securing the highest number of votes at the first election shall remain longest in office.

(4) Where more than one member is appointed by any body such body shall determine which of the members so appointed shall remain longest in office.

(5) Subject to the provisions of this Ordinance—

(a) appointed members due to retire under the provisions of this section shall hold office until the close of the annual general meeting of the board, and in the case of members elected by contributors until the close of the annual general meeting of contributors. Newly appointed, reappointed and elected members take office immediately after the respective meetings; and

(b) notwithstanding the provisions of any notice of the Administrator published in the *Gazette* at any time prior to the 1st September, 1931, members of hospital boards appointed under the provisions of section *nine* of this Ordinance and due to retire in accordance with such notice at the thirty-first day of December of the year immediately preceding the year of the annual general meeting of the board shall continue in office until the close of such meeting.

#### † Provisional Boards.

11. (1) (a) If at any time a board neglects to hold a meeting for a period of

\* As amended by section *two* of Ordinance No. 19 of 1930, section *three* of Ordinance No. 22 of 1931 and section *four* of Ordinance No. 11 of 1936.

† As substituted by section *three* of Ordinance No. 9 of 1942.

ninety days, or

(b) if the Administrator is satisfied that a board—

(i) has failed or refused to perform any of the duties imposed upon it by this Ordinance, or

(ii) is improperly exercising or has improperly exercised its powers or has unreasonably failed or refused to exercise any powers conferred upon it by this Ordinance or has done or intends to do any illegal or grossly irregular act in the execution of its functions, or

(iii) exercises its powers or duties in an improper manner or to the detriment of the hospital or hospitals under its control,

the Administrator may by proclamation in the *Gazette* dissolve such board as from a specified date.

(2) The Administrator may in such proclamation or in any subsequent proclamation declare as null and void any resolution passed at a meeting of such board which in the opinion of the Administrator was taken in an illegal or grossly irregular manner or under an improper exercise of its functions or powers or is detrimental to the interests of the hospital.

(3) (a) If a board is dissolved under sub-section (1) of this section the Administrator may by proclamation in the *Gazette* constitute a provisional board, the number of members of which shall not exceed that of the dissolved board.

(b) In the appointment of a provisional board as herein provided the Administrator shall as far as possible give due regard to the requirements of and the principles underlying section *nine*.

(c) A provisional board appointed in terms of this sub-section shall be vested with all the rights, powers and duties conferred on boards by this Ordinance.

(4) A provisional board shall hold office for a period of twelve months from the date of the proclamation referred to in sub-section (3) of this section.

(b) The Administrator shall before the expiry of the period of office of a provisional board take steps for the constitution of a new board in terms of section *nine*; provided that in the event of the constitution of a new board not being possible or desirable the Administrator may by proclamation in the *Gazette* extend the period of office of a provisional board for such further period as he may deem necessary but not exceeding a period of two years.

(c) A board constituted in terms of paragraph (b) of this sub-section shall not assume office until the day after the expiry of the period of office of the provisional board.

(5) Notwithstanding anything to the contrary in this Ordinance contained the Administrator may by proclamation in the *Gazette* appoint a person or persons to manage the affairs of a hospital or group of hospitals during the period intervening between the dissolution of a board and the constitution of a provisional board, or in the event of the constitution of a provisional board not being possible for such period as the Administrator may deem necessary and may in such proclamation prescribe the powers, duties and functions of the person or persons so appointed.

(6) If at any time all the seats on a board are vacant or the number of members has been decreased to a number which in the opinion of the Administrator is insufficient for the efficient conduct of the business of the board the Administrator may, notwithstanding anything to the contrary in this Ordinance contained by proclamation in the *Gazette* dissolve the existing depleted board, if any, and constitute a provisional board in which case the provisions of sub-section (3) to (5) of this section shall *mutatis mutandis* apply.

**\*Dissolution of Boards Constituted under Section 8 (2) (e).**

\*11*bis*. If a board constituted under paragraph (e) of sub-section (2) of section *eight* is dissolved in terms of sub-section (1) of section *eleven* the Administrator may constitute a new board in the manner provided in the said paragraph (e).

**\*Commissions of Inquiry.**

†11*ter*. (1) The Administrator may appoint a commission consisting of one or more persons to inquire into and report on—

(a) any complaint lodged by any person in respect of the treatment of a patient admitted to a public hospital,

(b) the conduct, administration and management of a public hospital, including the acts or omissions of boards as set out in section *eleven*, and may confer on such commission the powers, jurisdiction and privileges of the Commission's Powers Ordinance, 1902 (Ordinance No. 30 of 1902), or any amendment thereof.

(2) The appointment of a commission as aforesaid and the subject matter, the date, time and place of the inquiry shall in the case of matters referred to in paragraph (b) of sub-section (1) of this section be notified in the *Gazette* and in at least one English and one Afrikaans newspaper circulating in the district area in which the public hospital is situated.

\* Added by section *four* of Ordinance No. 9 of 1942.

† Added by section *five* of Ordinance No. 9 of 1942.

**Annual General Meeting of Board.**

\*12. (1) The annual general meeting of the board shall be convened to take place not later than the thirtieth day of April in each year for the purpose of—

(a) receiving, and, if approved, adopting the annual report, audited accounts and balance sheet for the preceding year; and

(b) transacting such other business as may be transacted at an annual general meeting of the board.

(2) The first annual general meeting of the board shall be held in the year nineteen hundred and thirty.

(3) Seven days' notice specifying the place and day and hour of such meeting shall be given.

**Annual General Meeting of Contributors.**

†13. (1) The annual general meeting of contributors shall be convened by the board to take place after the annual general meeting of the board but not later than the thirtieth day of April in each year for the purpose of receiving the annual report of the board, and, if authorised to do so, of electing elective members to the board.

(2) Every such meeting shall be presided over by the chairman of the board or in his absence by a member of the board deputed thereto by the board.

(3) The date, time, and place of every such meeting shall be notified to contributors by post or by advertisement in some newspaper circulating locally or by both methods as shall be decided by the board.

(4) (a) The election by the contributors at such meeting of members of a board shall take place in accordance with regulations which the Administrator shall make and publish in the *Provincial Gazette*.

(b) In the event of any contributor being a society, association, company or local authority such body shall be entitled to vote at any such election by a secretary, manager, director, town clerk or other official duly authorized thereto by resolution of such body, provided that such body shall, not later than the thirty-first day of January in every year in which any such election is to be held, notify to the board concerned the name of its representative duly authorized as aforesaid.

(5) Every hospital committee of an aided hospital shall in the month of December one thousand nine hundred and twenty-eight appoint from among such subscribers to such hospital as are contributors within the meaning of this Ordinance one or more members as may be required by the constitution of the board to act as an elective member or members on the board until the first annual general meeting of contributors under this section. If such committee shall fail to make any appointment hereunder such member or members shall be appointed by the Administrator.

(6) In the case of a provincial hospital the Administrator shall in the month of December one thousand nine hundred and twenty-eight appoint as members of the board to be constituted in terms of sub-section (1) of section *eight* hereof one or more members in place of such members as are required by the constitution of the board to be elected by contributors and the members so appointed shall hold office until the first annual general meeting of contributors under this section.

(7) In the case of a hospital for which a new board has been constituted under section *eight* (2) (a) the provisional hospital committee, constituted under section *six* (1) for such hospital, or, where no such provisional hospital committee was so constituted, the Administrator shall, within one month from the date of the Proclamation constituting such board appoint as members of such board one or more members in place of such members as are required by the constitution of the board to be elected by contributors and the members so appointed shall hold office until the first annual general meeting of contributors under this section.

*Section five of Ordinance No. 7 of 1929 provides:—*

**Elections of Elective Members of Boards.**

5. Notwithstanding anything to the contrary in the principal law contained it shall be lawful for the Administrator by notice in the *Provincial Gazette* to prescribe that for the purposes of the election of elective members of the board the said election shall be conducted by post in accordance with regulations framed by him in that behalf and promulgated in the *Provincial Gazette*.

**Members to be Capable of Re-appointment or Re-election.**

14. Every member shall, unless his office sooner becomes vacant in terms of section *sixteen* of this Ordinance hold office until the election or appointment of his successor in accordance with this Ordinance, but shall be capable of re-appointment or re-election.

\* As amended by section *five* of Ordinance No. 11 of 1936 and section *two* of Ordinance No. 14 of 1943.  
 † As amended by section *two* of Ordinance No. 7 of 1929, section *five* of Ordinance No. 22 of 1931, section *six* of Ordinance No. 11 of 1936, section *six* of Ordinance No. 9 of 1942, and section *three* of Ordinance No. 14 of 1943.

**Disqualification of Members.**

15. (1) The following persons shall be incapable of being elected or appointed or if elected or appointed of continuing to be members of a board:—

- (a) A minor.
- (b) A person of unsound mind, declared as such by a competent court.
- (c) A person whose estate shall be in liquidation or under assignment in trust for his creditors.
- (d) An unrehabilitated insolvent.
- (e) A person convicted at any time of an offence for which imprisonment with hard labour has been imposed as a punishment unless he shall have obtained a free pardon, or his period of imprisonment shall have expired at least three years prior to the date of his appointment or election.
- (f) A person who holds any office or place of profit under or in the gift of the board.
- (g) A person who is concerned or interested (otherwise than as a member of an incorporated company) in any contract made by the board, if the payment made or to be made in respect of any such contract exceeds five pounds in the case of a single contract, or ten pounds altogether in any calendar year in the case of two or more contracts;

provided, however, that an interest in any lease granted or agreed to be granted to or by the board, or in any loan raised by the board, whether on security or otherwise shall not constitute a disqualification under this section.

Provided further that if it shall appear to the Administrator, on application by the board, that any contract granted or to be granted by the board is desirable in the public interest, he may relax the provisions of this section in respect of such contract, and thereupon the granting of such contract shall not constitute a disqualification under this section; and provided further that upon the application of the board of any hospital other than a hospital classified by the Administrator as a central hospital or as a first grade hospital the Administrator may direct that the provisions of paragraph (g) of this subsection shall not apply in the case of such hospital.

(2) Subject to the provisions of this section, any white person, whether male or female, may be elected or appointed as a member of a board.

**When the Office of a Member becomes Vacant.**

16. The office of any member of a board shall become vacant if he—

- (a) dies; or
- (b) resigns his office by writing under his hand delivered to the secretary or the chairman of the board; or
- (c) becomes insolvent, or makes any composition with his creditors for less than twenty shillings in the pound, or makes an assignment of his estate for the benefit of his creditors; or
- (d) becomes of unsound mind; or
- (e) is convicted at any time of an offence for which imprisonment with hard labour has been imposed; or
- (f) is absent without leave from three consecutive ordinary meetings of the board; or
- (g) holds any office or place of profit under or in the gift of the board; or
- (h) is concerned or interested (otherwise than as a member of an incorporated company) in any payment for goods supplied or for services rendered to the board or in any contract made by the board, if the amount involved in respect of any such payment or contract exceeds five pounds in the case of a single payment or contract, or ten pounds altogether in any calendar year in the case of two or more payment or contracts.

Provided, however, that an interest in any lease granted or agreed to be granted to or by the board or in any loan raised by the board, whether on security or otherwise, shall not constitute a cause of forfeiture of office under this section.

Provided further that if it shall appear to the Administrator on application by the board that any intended purchase or payment for services to be rendered or that any contract to be granted would be desirable in the public interests, he may relax the provisions of this section in respect of such purchase payment or contract, and thereupon the making of such purchase or payment or the granting of such contract shall not constitute a cause of forfeiture of office under this section; and provided further that upon the application of the board of any hospital other than a hospital classified by the Administrator as a central hospital or as a first grade hospital the Administrator may direct that the provisions of paragraph (h) of this section shall not apply in the case of such hospital.

**Failure to Appoint or Elect Members of Boards.**

\*16bis. Should any person or body referred to in paragraphs (b) and (c) of sub-section (2) of section nine fail or refuse to appoint its representative or

\* Added by section four of Ordinance No. 14 of 1943.



representatives within a period prescribed by the Administrator the Administrator shall, subject to the provisions of sub-section (3) of section *seventeen* have the right himself to appoint a member or members, as the case may be, to represent such person or body and to prescribe the period of office of any member so appointed by him anything to the contrary in this Ordinance notwithstanding.

#### Casual Vacancies.

\*17. (1) Whenever the office of a member of a board other than a member elected by the registered contributors becomes vacant the person or body by whom he was appointed or elected shall, subject to the provisions of paragraphs (d) and (e) of sub-section (2) of section *eight* appoint or elect, as the case may be, a successor to fill the vacancy, provided that if such member was appointed by the Administrator in terms of section *sixteen bis* or sub-section (3) of this section his successor shall only be appointed by the Administrator if the person or body who would normally be entitled to appoint or elect a member to that office fails or refuses to appoint or elect a successor within a period of two months from the date on which the vacancy occurred.

(2) Whenever the office of a member elected by the registered contributors becomes vacant, the board shall at a meeting at which a quorum is present appoint a successor to fill the vacancy.

(3) Should any person or body fail or refuse to appoint or elect a member to fill a casual vacancy as required by this section within a period of two months from the date on which the vacancy occurred the Administrator shall have the right himself to appoint a member to represent such person or body.

(4) Every person appointed in terms of this section to fill a casual vacancy shall hold office for the remainder of the period for which his predecessor would have remained in office.

#### Acts of Boards not Affected by Reason of Manner of Appointment or Election, etc.

†18. The establishment of a board and all proceedings of the board or of any person acting as chairman, vice-chairman, member of the board or secretary or superintendent (as the case may be) shall, notwithstanding that it be discovered that there was some defect in the election or appointment of the person so acting or that he was disqualified, be as valid and effectual as if the person had been duly elected or appointed and qualified.

*Section seven of Ordinance No. 22 of 1931, as amended by section six of Ordinance No. 14 of 1943, provides:—*

#### Exemption from Personal Liability.

7. Chapter II of the principal law shall be and is hereby amended by the insertion immediately after section *eighteen* of the following new section:—

“No matter or thing done or omitted, and no contract entered into by the board, and no matter or thing done or omitted by any member of a board or officer or servant of the board or other person acting under the direction of the board shall, if the matter or thing were done or omitted or the contract was entered into in good faith for the purposes of this Ordinance or of any regulation in force subject any such person personally any action, liability, claim or demand whatsoever; and any expense incurred by the board or any such person as aforesaid shall be paid by the board out of its revenues; provided that nothing in this section shall exempt any such member of a board, officer or servant or other person aforesaid from liability to be surcharged with the amount of any payment which may be disallowed by the auditor appointed by the Administrator under sub-section (1) of section *seventy-four* of this Ordinance in the accounts of the board and which such member of a board authorized or joined in authorising.”

#### Board's Successors to Hospital Committees.

19. Each board constituted under sub-section (1) of section *eight* of this Ordinance shall for all purposes be deemed to be the successor of the hospital committee of the hospital or group of hospitals for the control and management of which such board is constituted.

### CHAPTER III.

#### *Powers of Boards Management and Administration.*

#### Control of Hospitals Vested in Board.

20. (1) A board shall have the control and management in accordance with this Ordinance of the hospital or group of hospitals for the management of which it was constituted under sub-section (1) of section *eight* hereof and of any hospital or portion of a hospital the control and management of which is transferred to it by the Administrator after it has been so constituted and of

\* As substituted by section *six* of Ordinance No. 14 of 1943.

† As substituted by section *three* of Ordinance No. 19 of 1930.

any hospital which is established by the board in accordance with the provisions of this Ordinance.

(2) A board may from time to time with the consent of the Administrator establish a hospital and such hospital shall upon such establishment be under the control and management of the board subject to the provisions of this Ordinance.

#### **Meetings of the Board.**

21. (1) The first meeting of a board constituted under this Ordinance shall be held at such time and place as the Administrator shall appoint.

(2) The ordinary meetings of the board shall be held at least once a month at such times and places as the board may from time to time appoint. Before the holding of any such meeting notice shall be given in writing to each member of the board of the business to be transacted thereat. The accidental omission to serve on any member such notice shall not affect the validity of any meeting.

(3) The chairman may at any time and shall at the request in writing of not less than one-third of the members of the board call a special meeting of the board; provided that the notice of any special meeting shall specify the object of the meeting.

#### **Appointment of Chairman.**

22. (1) At the first meeting of a board after the commencement of this Ordinance or so soon thereafter as may be, the board shall elect one of its members to be the chairman thereof and, if it so desires, another to be vice-chairman thereof.

(2) During the month of March and after the annual general meeting of the board, or as soon thereafter as may be, in the year one thousand nine hundred and thirty and each year thereafter the board shall elect one of its members to be the chairman thereof, and, if it so desires, another to be vice-chairman thereof.

(3) When the chairman of a board resigns his office by writing under his hand delivered to the secretary or in the absence of the secretary then to any member of the board, or ceases to be a member of the board, his office as chairman thereof shall become vacant, and the board shall so soon as may be thereafter elect one of its members to be the chairman thereof.

(4) Every person elected as chairman of a board shall hold office until the election of his successor, unless his office sooner becomes vacant.

#### **Chairman to Preside at Meetings.**

23. (1) At every meeting of the board the chairman, if present, shall preside.

(2) If the chairman is absent from any meeting, or if there is for the time being no chairman, the members present shall, unless there be a vice-chairman and he is present at the meeting, choose one of their number to act as chairman at that meeting, and the member chosen shall have the same powers at that meeting as if he were the chairman of the board.

#### **Method of Deciding Questions before the Board.**

24. (1) Every question before the board shall be decided by the votes of a majority of the members present.

(2) The chairman shall have a deliberative vote, and also in any case where the votes are equal, a casting vote.

(3) No business shall be transacted at any meeting unless at least a quorum of members is present thereat during the whole time during which the business is transacted.

(4) A quorum shall consist of not less than one-third of the members of the board, including the chairman, provided that it shall not in any case consist of fewer than three members.

#### **Meetings of Board to be Open to the Public.**

25. (1) All meetings of the board shall be open to the public unless during any meeting it is deemed that any subject can be more conveniently and advantageously discussed in private, in which case it shall be competent for the board to resolve itself into committee and to exclude the public from the meeting; and any resolutions adopted by the board in committee shall have the same effect as if adopted by the board when not in committee.

#### **Board may Appoint Standing Committees.**

\*26. (1) For the administration of any matter within the powers of a board the board may, if and so long as it thinks fit, establish and maintain from amongst its members a committee, and every such committee shall, subject to the control of the board, have the general administration of the matter in respect of which it is established; provided that in the case of a board of a

\* As amended by section *eight* of Ordinance No. 22 of 1931.

public hospital classified in terms of section *five* as a central hospital the members of any such committee need not be members of the board.

(2) A committee may be established for each hospital whenever there is more than one hospital under a board and the honorary visiting medical officers at every such hospital shall have the right to nominate a representative to serve on the committee established by the board.

#### Acts and Proceedings of Committees to be Reported to the Board.

27. All the acts and proceedings of a committee appointed under section *twenty-six* hereof shall be reported to the board, and shall not, except so far as the board by regulation or resolution otherwise provides, have any operation or effect until approved at a meeting of the board.

#### Proceedings of Board and Committees to be Governed by Regulations.

28. (1) The proceedings of a board and the proceedings and powers of every committee appointed under section *twenty-six* hereof shall be governed by such regulations not inconsistent with the provisions of this Ordinance as are made by the board with the approval of the Administrator from time to time.

(2) Proper minutes shall be kept of all such proceedings.

#### Appointment of Officers.

\*29. (1) A board may from time to time subject to the provisions of this Ordinance appoint a superintendent, a secretary, and such other officers, matrons, nurses, attendants and servants (hereinafter referred to as employees) as it deems necessary to assist in the management of any public hospital under its control or otherwise in the execution of this Ordinance, provided that no person may be appointed hereunder who is a member of a board or who has been such a member during the preceding six months; provided further that the appointment of a superintendent or matron or secretary shall be subject to the prior approval of the Administrator.

(2) Every person in the employment of a hospital committee at the commencement of this Ordinance shall be deemed to have been appointed by the board under and for the purposes of this Ordinance.

(3) All persons appointed in terms of this section and all employees of a hospital committee taken over by the board shall be paid out of the revenues of the board such salaries, wages or other remuneration as the board thinks fit, subject to the provisions of the next succeeding sub-section.

(4) (a) The Administrator shall from time to time after consultation with the council—

(i) determine what the staff of a public hospital shall be, and

(ii) prescribe the scales of salaries, wages and allowances payable to the persons on the authorised establishment of the board determined in terms of sub-paragraph (i) of this paragraph.

(b) No person shall be appointed by the board in excess of the authorised establishment determined by the Administrator in terms of sub-paragraph (i) of paragraph (a) of this sub-section, unless the Administrator's consent has been obtained.

(c) Employees shall be paid salaries, wages and allowances in accordance with the scales prescribed in terms of sub-paragraph (ii) of paragraph (a) of this sub-section; provided that the board may with the Administrator's consent—

(i) pay an employee, on appointment, a higher salary or wage than the minimum of the appropriate scale, and

(ii) specially advance an employee within the scale applicable to him.

(d) It shall be deemed that the scales of salaries, wages and allowances in force at the commencement of this Ordinance in respect of provincial hospitals have been prescribed by the Administrator under sub-paragraph (ii) of paragraph (a) of this sub-section until altered by the Administrator under that sub-paragraph.

(e) Notwithstanding anything to the contrary in this Ordinance contained an employee's salary or wages shall not be reduced and he shall not be placed on a lower scale unless the Administrator's consent has been obtained.

#### Special Provisions in regard to Pensionable Officers.

†30. (1) No person contributing to a pension fund under the provisions of the next succeeding section and no superintendent, secretary, matron, or such other class of employee of the board as the Administrator may, by proclamation in the *Gazette*, in terms of sub-section (2) of this section, determine shall be removed from office, or have his pensionable salary or emoluments reduced without his consent unless the sanction of the Administrator has been obtained provided that the board may suspend any such person from the duties or emoluments of his office for gross incapacity neglect or misconduct, pending the

\* As amended by Sections *four* of Ordinance No. 19 of 1930, *nine* of Ordinance No. 22 of 1931, *two* of Ordinance No. 20 of 1940, and *seven* of Ordinance No. 14 of 1943.

† As amended by section *ten* of Ordinance No. 11 of 1936 and section *three* of Ordinance No. 20 of 1940.

sanction of the Administrator to his dismissal and in the event of such sanction being granted such person shall be deemed to be removed from office from the date of such suspension or such later date as may be determined by the board.

(2) The Administrator may from time to time by proclamation in the *Gazette* determine that the provision of sub-section (1) of this section, relating to superintendents, secretaries, and matrons, shall be applicable to such other class of employee of the board as may be specified by him.

#### **Pensions.**

\*31. (1) The provisions of the Pensions Ordinances shall continue to apply to every public hospital which before the commencement of this Ordinance was a provincial hospital.

(2) The Pensions Ordinances shall be and are hereby applied respectively to the nurses of every other public hospital and to those officers thereof who occupy such posts as may from time to time be prescribed by the Administrator provided that wherever the expression "fixed date" is used in the Pensions Ordinances it shall, in the case of the employees mentioned in this sub-section, mean the first day of April one thousand nine hundred and twenty-nine and provided further that the board shall determine what period of past continuous service (if any) prior to the fixed date any such employee shall be entitled to reckon for pension purposes.

(3) Whenever an employee of the board is paid a salary or wage in excess of the maximum of the scale applicable to him, such excess amount shall for the purposes of the Pensions Ordinance, not be regarded as pensionable emoluments, but shall be regarded as a personal non-pensionable allowance.

(4) Any amount paid to any employee under sub-paragraph (ii) of the first proviso to paragraph (a) of sub-section (4) of section *twenty-nine* hereof which shall be in excess of the salary or wage which would have been paid in accordance with the prescribed scale shall not be deemed to be included for the purposes of the Pensions Ordinances in his pensionable emoluments but shall for all purposes be regarded as a personal non-pensionable allowance.

5.—*Repealed by section seven of Ordinance No. 11 of 1936.*

#### **Certain Officers to be Registered.**

32. (1) No matron, sister, staff nurse, head nurse or charge nurse shall hold office after the commencement of this Ordinance in connection with any public hospital unless registered as a trained nurse by the medical council of a Province of the Union or by any lawful successor thereof.

(2) No midwife shall hold office after the commencement of this Ordinance in connection with any public hospital unless registered as a certificated midwife by the medical council of a Province of the Union or by any lawful successor thereof.

(3) Nothing in this section contained shall prevent any unregistered person holding any office as matron, sister, head nurse, staff nurse, charge nurse, or midwife in connection with any hospital under a hospital committee before the first day of January, one thousand nine hundred and twenty-nine from continuing to hold the same or from holding any similar office in a public hospital after the commencement of this Ordinance.

#### **Authentication of Documents.**

33. Every document requiring authentication by the board shall be sufficiently authenticated if signed by two members thereof or by such officer of the board duly authorised thereto by any resolution or regulation of the board.

#### **Contracts.**

34. All contracts the value of the subject matter of which exceeds the sum of fifty pounds shall be in writing and shall be signed by two members of the board and by the secretary.

#### **Board may Compound in respect of Breaches of Contract.**

35. A board may compound with any person for such sum of money or other recompense as it thinks fit in respect of the breach of any contract or in respect of any debt or money payable to the board whether before or after action brought for the recovery thereof.

#### **Certain Contracts to be Approved by Administrator.**

†36. No contract with the managers of a sick fund or benefit society or government department for the grant of indoor relief at a rate lower than the tariff rates for general wards shall be entered into by a board without the sanction of the Administrator.

\* As amended by section *eight* of Ordinance No. 14 of 1943.  
\* As amended by section *eleven* of Ordinance No. 22 of 1931.

**Property of Dissolved Boards to vest without Conveyance in Boards.**

37. (1) On the establishment of a board under this Ordinance, all movable and immovable property of every description vested in any hospital committee shall vest in that board without conveyance or assignment for the estate and interest of the hospital committee therein and it shall be lawful for the Governor-General to transfer to the board in terms of this section any land registered in the name of the Government and used by a hospital committee for the purposes of a hospital.

(2) Notwithstanding anything in this section contained the immovable property used by the Pretoria Hospital at the commencement of this Ordinance shall not be vested in the board but shall as soon as may be after the new buildings in course of erection, for that hospital are opened be handed over by the board to the Administration.

(3) On the constitution of a board in terms of sub-section (1) or sub-section (2) of section *eight* hereof all the assets and liabilities of the hospital committee of which it is the successor in terms of section *nineteen* hereof shall become the assets and liabilities respectively of such board.

(4) Where any land or any estate or interest in land becomes by virtue of this Ordinance vested in a board without conveyance or assignment, and a hospital committee or any trustee appointed in connection with a hospital committee is the registered owner of that land, estate or interest, the Registrar of Deeds shall, at the request of the board, and on being satisfied, by sworn declaration or otherwise, of the title of that board, register that board as the owner of the said land, estate or interest in lieu of the said hospital committee or trustee.

**Property Vested in Board as Successor of Hospital Committee to remain subject to Existing Trusts.**

38. All property which vests in a board as the successor of a hospital committee in accordance with this Ordinance shall remain subject to any trusts affecting that property at the time when it so vests and shall at all times thereafter be appropriated and dealt with by the board for the purposes of those trusts, and in accordance with the terms thereof, except in so far as those purposes and terms are in the opinion of the Administrator repugnant to or inconsistent with the provisions of this Ordinance.

**Board may Accept Property in Trust.**

39. (1) A board may accept any property, by way of bequest, devise or gift in trust for the purpose of any existing or future hospital under its control, or in trust for any purpose to which the board can lawfully apply its own property.

(2) All property accepted by a board in trust under the authority of this section, and all income derived therefrom shall be appropriated and dealt with by it for the purposes of the trust and in accordance with the terms thereof so far as those purposes and terms are in the opinion of the Administrator consistent with the provisions of this Ordinance.

**Board may Sell or Exchange Land.**

\*40. A board may, with the consent of the Administrator, sell or otherwise alienate or dispose of any movable or immovable property vested in it other than land held in trust for any special purpose, and pay or receive any money by way of equality of exchange; provided that the Administrator shall not give such consent in the case of any such immovable property transferred to the board by the Government of the Union of South Africa before he has consulted the Minister of Lands.

**Board may Lease Land.**

41. (1) A board may, with the approval of the Administrator, grant leases of any lands vested in it.

(2) The powers of leasing hereby conferred upon a board shall extend to any endowment vested in it, and to land held by it upon any trust; but it shall not be lawful for the board to grant a lease of any such endowment or trust property for such terms or upon such conditions as are in the opinion of the Administrator inconsistent with the due and proper use of the same for the purposes for which it is vested in the board.

**Board may Sell, etc., Lands held in Trust.**

†42. The powers of selling, exchanging, mortgaging, or encumbering land which are conferred upon the board by this Ordinance shall, with the consent of the Administrator, extend to land held in trust for any special purpose notwithstanding the terms of that trust; but the proceeds of any such sale and the land or money obtained by any such exchange, shall be subject to the same or similar trusts, so far as may be as the land so disposed of; provided that

\* As amended by section *twelve* of Ordinance No. 22 of 1931.

† As amended by section *thirteen* of Ordinance No. 22 of 1931.

the Administrator shall not give such consent in the case of any land transferred to the board by the Government of the Union of South Africa before he has consulted the Minister of Lands.

#### Property Acquired to Vest in Board.

43. All property acquired by a board shall be vested in such board.

#### Erection of Buildings by Board.

\*44. No new building shall be erected by a board and no structural additions or alterations shall be made by it to any building without the previous consent of the Administrator if the cost exceeds—

in the case of a public hospital classified by the Administrator as a central hospital: one thousand pounds;

in the case of a public hospital so classified as a first grade hospital: four hundred pounds;

in the case of a public hospital so classified as a second grade hospital: two hundred and fifty pounds;

and in the case of a public hospital so classified as a first or second class clearing hospital: one hundred pounds;

provided that plans and specifications of every proposed new building or structural alteration or addition shall be forwarded by the board to the Administrator for his information; provided further that a board constituted under paragraph (e) of sub-section (2) of section *eight* shall not erect or cause to be erected any new buildings or make or cause to be made any structural additions or alterations to any building without the previous consent of the Administrator.

#### Board may Close a Hospital.

45. A board may, with the previous consent in writing of the Administrator, close a hospital under its control.

#### Maintenance of Hospitals to be to Satisfaction of the Administrator.

+46. (1) It shall be the duty of every board, at all times to maintain all hospitals under its control to the satisfaction of the Administrator.

(2) It shall be the duty of every board to receive into any hospital under its control, so far as adequate accommodation is therein available, any person suffering from any of the diseases for the relief of which that hospital is established. Patients shall be admitted according to the urgency of the need for relief but in any area where a suitable private nursing home exists with vacant accommodation the sick poor shall, other things being equal, always have preference at any such hospital.

(3) A board other than a board constituted under paragraph (e) of sub-section (2) of section *eight* may grant relief in or at the hospital under its control and management free of charge or at a reduced rate to any or all of the following classes of persons as privileged patients:—

(a) members of the board or their dependents;

(b) members of the honorary visiting staff or of any paid staff of any public hospital and their dependents.

(c) medical students.

#### Patients Paying Full Tariff to be Liable for Medical Fees.

†47. (1) In any public hospital classified by the Administrator as a central hospital or first grade hospital and in such other hospital or hospitals as the Administrator may from time to time by proclamation in the *Gazette* determine patients paying not less than the full tariff charges whether in general or in private wards shall be liable for medical fees to their medical attendants and shall, subject to the provisions of this Ordinance, be entitled to select such attendant whether on the staff or not.

(2) In any public hospital other than a public hospital to which the provisions of sub-section (1) apply classified by the Administrator as a central hospital patients paying seven shillings and sixpence per diem and over in the case of Europeans and three shillings and sixpence per diem and over in the case of non-Europeans shall be liable for medical fees to their medical attendants and shall, subject to the provisions of this Ordinance, be entitled to select such attendant whether on the staff or not.

(3) Nothing herein contained shall prevent a board from refusing to any registered medical practitioner access to any public hospital or to any specified portion thereof, provided that any such practitioner may appeal to the Administrator whose decision in the matter shall be final. Provided further that where any member of a board has moved that access be refused to a registered medical practitioner, in circumstances where the admission of such prac-

\* As amended by section *seven* of Ordinance No. 9 of 1942.

† As amended by section *five* of Ordinance No. 19 of 1930, section *fourteen* of Ordinance No. 22 of 1931, and section *eight* of Ordinance No. 9 of 1942.

‡ As amended by section *six* of Ordinance No. 19 of 1930 and section *nine* of Ordinance No. 14 of 1943.

tioner affects what the Administrator deems to be an issue of general policy, and the board has not accepted such motion, such member may appeal to the Administrator, whose decision in such case shall also be final.

The expression "registered medical practitioner" as used in this sub-section shall include a medical student.

#### **Applicants for Relief to Furnish Correct Information.**

\*48. (1) Except in cases of emergency, the board or a person appointed by the board shall, in the case of a person applying for indoor relief at a public hospital and not undertaking to pay the relative fees and charges in full, and may in the case of a person applying for indoor relief at a public hospital and undertaking to pay the relative fees and charges in full, refuse assistance until—

(a) such applicant or the person responsible for him has supplied the information necessary to enable a form of admission in the form appearing in the Second Schedule to this Ordinance to be completed and has signed such form after it has been duly completed; or

(b) such applicant or the person responsible for him has, supplied such other information as will enable the means of the applicant or person responsible for him to be ascertained.

(2) If for any reason the provisions of this section cannot immediately be complied with, the board may furnish temporary relief to any applicant pending further inquiry.

(3) The almoner or other officer specially appointed by the board for the purpose, shall on the information supplied in terms of sub-section (1) assess to what extent the applicant or person responsible for him shall be liable to the board for fees and other charges; provided that the board or a committee appointed by the board from its members for the purpose may in its absolute discretion vary any assessment made under this sub-section.

(4) If any such applicant or any person knowingly or wilfully on behalf of such applicant furnishes any false, incorrect or misleading information, with a view to obtaining relief from the board free of cost or at a lower rate than otherwise such applicant would be required to pay, he shall be guilty of an offence and shall upon conviction be liable to a fine not exceeding ten pounds or to imprisonment with or without hard labour without the option of a fine for a period not exceeding three months.

#### **Board to Keep Contributors' Names and Addresses.**

49. Every board shall keep a book to be styled "The Contributors' Register," in which shall be entered the names and addresses of all contributors and the amount or amounts subscribed by each contributor.

#### **Framing of Regulations by Board.**

†50. (1) A board, in respect of any hospital under its control, may from time to time make, revoke or amend regulations, not inconsistent with this Ordinance, as to any of the following matters:—

(a) regulating the admission or discharge of patients and other persons receiving treatment and the tariff of charges applicable to patients;

(b) maintaining order, discipline, decency and cleanliness among the inmates of such hospital;

(c) prescribing the duties of the honorary visiting medical officers and of the officers, nurses, attendants, and servants and the conditions upon which registered medical practitioners not on the staff may, subject to the provisions of section forty-seven hereof, attend patients at such hospital;

(d) regulating the appointment duties and privileges of employees; (exclusive however of leave of absence of employees).

*Sub-section (2) of section eight of Ordinance No. 11 of 1936 provides:—*

#### **Existing Leave Regulations Preserved.**

(2) *Any regulations in regard to leave of absence of the employees of any board in force at the date of the commencement of this Ordinance shall continue to have force and effect until altered, amended or repealed by the Administrator under the powers conferred upon him by section seventy-seven of the principal law as amended by this Ordinance.*

(e) regulating the grant of relief to patients or other persons not being inmates of such hospital;

(f) generally making provision for financial matters and for all matters affecting the management, care, control, and superintendence of such hospital and the fulfilment of the purposes thereof;

(g) preventing trespass upon the premises of such hospital or the grounds attached or belonging thereto;

\* As amended by section three of Ordinance No. 7 of 1929 and section ten of Ordinance No. 14 of 1943.

† As amended by sections fifteen of Ordinance No. 22 of 1931 and two of Ordinance No. 17 of 1941.

(h) prohibiting the introduction of any specified articles into such hospital;

(i) providing for a breach of any regulation framed under sub-section (g) or (h) hereof a penalty not exceeding five pounds or one month's imprisonment.

(2) The making, revocation or amendment of any such regulation shall not take effect unless and until approved by the Administrator and published in the *Gazette*.

(3) The Administrator may by notice in the *Gazette* at any time repeal any regulation in force at the commencement of this Ordinance.

(4) Any regulation may relate either to a single hospital or to two or more hospitals or generally to all hospitals under the control of the board.

(5) All regulations in force with respect to any public hospital at the commencement of this Ordinance shall, so far as they are consistent with this Ordinance and the regulations thereunder, remain in force with respect to such public hospital as if they had been framed under this Ordinance, and may be revoked, varied and enforced in the same manner as if they had been made by the board in which such hospital is vested.

(6) The Administrator may from time to time make regulations for any public hospital for which a board is constituted on any matter in regard to which such board is empowered under this section to make regulations and may amend or revoke any regulation made by him under this section or any regulation made by a board under this section.

## CHAPTER IV.

### FINANCIAL.

#### Provincial Subsidies.

51. There shall be paid to every board out of monies to be appropriated by the Provincial Council for the purpose such sums by way of subsidy as are hereinafter provided. The Administration shall not be liable for any additional amounts whatever for the purpose of meeting any deficiencies which may be incurred by a board or for any other purposes whatsoever.

#### Subsidies in respect of Free Patients, Fees Collected, Part-paying Patients, out-Patients and Increased Salaries and Allowances of Staff.

\*52. (1) (a) There shall be paid to a board a subsidy based on the number of free patients who during the current calendar year received relief free of charge at any public hospital under the control and management of such board and calculated at the rate of twelve shillings and sixpence per patient per diem in the case of European patients and six shillings per patient per diem in the case of non-European patients; provided that the Administrator may in his discretion increase any subsidy aforesaid in respect of any public hospital.

(b) The subsidy referred to in paragraph (a) of this sub-section shall in the case of public hospitals other than central and first grade hospitals only be paid in respect of patients in respect of whom a magistrate, or such other person as may have been authorised thereto by the Administrator, has issued a certificate that such patients are not in a position to contribute towards the cost of hospital treatment.

(2) (a) A subsidy of five shillings for every £ received by a board during the current calendar year in respect of fees paid for patients treated at any public hospital under the control and management of such board, shall be paid to it; provided that if in any year the number of patient days in respect of European patients admitted as free patients is less than twenty-five per cent. of the total number of patient days in respect of European patients, the subsidy payable in terms of this paragraph in respect of European patients shall be reduced by one twenty-fifth for every one per cent. by which the patient days in respect of European patients admitted as free patients fall short of such twenty-five per cent.

(b) No subsidy shall be paid under paragraph (a) of this sub-section in respect of fees for patients treated for infectious or contagious diseases under the provisions of the Public Health Act, 1919 (Act No. 36 of 1919) or any amendment thereof or of any other law.

(3) The following subsidy shall be payable to a board in respect of part-paying patients treated during the current calendar year at any public hospital under the control and management of the board—

(a) in the case of European part-paying patients the sum representing the total number of patient days in respect of European part-paying patients multiplied by twelve shillings and six pence or such greater amount as the Administrator may in his discretion determine in respect of the particular public hospital less the total amount of fees actually received in respect of European part-paying patients during that period;

\* [Sub-sections (1) to (4) deemed to have come into operation on 1st January, 1943. See Section thirteen of Ordinance No. 14 of 1943.]



(b) in the case of non-European part-paying patients the sum representing the total number of patient days in respect of non-European part-paying patients multiplied by six shillings or such greater amount as the Administrator may in his discretion determine in respect of the particular public hospital less the total amount of fees actually received in respect of non-European part-paying patients during that period.

(4) There shall be paid to every board a subsidy of one shilling for every attendance on an out-patient treated during the current calendar year at any public hospital under its control and management.

(5) For the purpose of assisting a board to meet its financial obligations in respect of any increase in the salaries and allowances of the employees of the board there shall in addition to any subsidies which may be paid to it under this Ordinance be paid to such board a subsidy based on the number of in-patients treated during the current calendar year at any public hospital under the control and management of such board and calculated at the rate of six pence per in-patient per diem; provided that in respect of the calendar year ending on the 31st day of December, 1943, the aforesaid subsidy shall be based on the number of in-patients treated as from the 1st day of April, 1943.

#### **Subsidy on Subscriptions, Gifts, Donations and Bequests.**

53. (1) There shall be paid to every board a subsidy of twenty shillings for every £ of cash received by the board by way of subscriptions, gifts, donations and bequests, during the year for the maintenance of any public hospital under the control and management of such board; provided that—

(a) on annual donations by the trustees under and from the income of bequests by the late Mrs. Elsie Ballot towards the maintenance of the Elsie Ballot Hospital at Amersfoort the subsidy payable shall be calculated on the basis of ten shillings for every £ so received;

(b) no amount received in respect of the treatment of patients shall be deemed to be a subscription, gift or donation for the purposes of this section;

(c) if the total amount received by the board from any one person during any one financial year exceeds one thousand pounds the total subsidy payable in respect of such total amount shall not exceed one thousand pounds;

(d) the expression "any one person" in proviso (c) to this sub-section shall not include a local authority or any organisation or body which provides, raises or collects funds for donation to a public hospital.

(2) When property or money is received by a board as a gift or bequest for the endowment of a public hospital under the control and management of such board, or when any subscription, gift, donation or bequest is received by the board in the circumstances mentioned in sub-section (2) of section *sixty-six* and is invested in terms of that sub-section the subsidy payable under sub-section (1) of this section shall not be payable on the capital sum but shall be payable on the net income received in the year by the board in respect of such property, money, subscription, gift, donation or bequest, or on the interest earned by the investment thereof.

(3) In respect of any bequest for expenditure on one or more specific purposes other than for the maintenance of a public hospital a subsidy of ten shillings shall subject to the provisions of sub-section (5) of this section, be payable for every £ of the value of such bequest, but shall in respect of the estate of any one testator not exceed one thousand pounds in the case of a central hospital, seven hundred and fifty pounds in the case of a first grade hospital, five hundred pounds in the case of a second grade hospital and two hundred and fifty pounds in the case of a first or second class clearing hospital; provided that in the case of the Elsie Ballot Hospital at Amersfoort the subsidy which would normally be payable under this sub-section shall be reduced to such an amount as the Administrator may in his discretion determine.

(4) All moneys paid as subsidy in respect of any bequest shall be deemed to form part of such bequest and shall be appropriated and expended in the manner in which the bequest may be lawfully appropriated and expended and not otherwise.

(5) Notwithstanding anything to the contrary in sub-sections (3) and (4) of this section contained the Administrator may withhold any subsidy payable under sub-section (3) of this section if having due regard to the classification of the public hospital concerned he is of opinion that it is not desirable that the purpose of the bequest should be given effect to.

(6) For the purposes of this section the words "subscriptions", "gifts", "donations" and "bequests" shall mean only the net amounts accruing to the board concerned after deduction of all payments, disbursements or expenses incurred in connection therewith.

#### **Subsidy in respect of First and Second Years of the Existence of Hospitals or of the Existence of Extension in Accommodation.**

54. (1) Whenever the Administrator is of opinion that a board is unable

to meet its financial obligations in respect of the first and second years of the existence of a public hospital under its control and management he may in addition to any subsidies which may be paid to such board under this Ordinance, authorise the payment to such board of such subsidy as he may deem necessary in respect of the first, and if he thinks fit, the second year of the existence of such hospital.

(2) Whenever the Administrator is of opinion that a board is unable to meet its financial obligations owing to the extension in accommodation at a public hospital under its control and management he may in addition to any subsidies which may be paid to such board under this Ordinance, authorise the payment to such board of such subsidy as he may deem necessary in respect of the first and if he thinks fit, the second year of the existence of such extension in accommodation; provided that where, while the Union was at war, additional accommodation has with the consent of the Administrator, been set apart or specially provided at a public hospital for members of any force or service established by or under the South Africa Defence Act, 1912 (Act No. 13 of 1912), as amended, or any proclamation or regulation validated by section two of the War Measures Act, 1940 (Act No. 13 of 1940) and where before, on or after the cessation of hostilities the need for special accommodation for the members aforesaid, ceases to exist and the accommodation used for the members aforesaid is thereafter with the consent of the Administrator made available for ordinary and general use as part of the public hospital, such accommodation shall for the purposes of this sub-section be deemed to have come into existence on the date on which it ceases to be used for the purpose for which it was set apart or specially provided as aforesaid if the Administrator so determines and if the Administrator would have been entitled to grant a subsidy under this sub-section had such accommodation not been used for the members aforesaid.

**Subsidy in Respect of Maintenance Costs of Additional Accommodation.**

55. If the Administrator is satisfied that a board has incurred expenditure for the specific purpose of meeting maintenance costs of additional accommodation at a public hospital under its control and management and that such board is unable to meet its financial obligations in respect of such maintenance costs or on account of any of its funds having been applied thereto the Administrator may in addition to any subsidies which may be paid to such board under this Ordinance, authorise the payment to such board of such subsidy as he may deem fit for the purpose of assisting such board to meet such obligations.

**Subsidy in Respect of Maintenance Costs of Public Hospitals.**

56. Whenever the Administrator is satisfied that a board is unable to meet its financial obligations in respect of the maintenance costs of a public hospital under its control and management, he may in addition to any subsidies which may be paid to that board under this Ordinance, authorise the payment to it of such subsidy as he may deem fit for the purpose of assisting that board to meet such obligations provided that—

- (a) no such payment shall be authorised—
  - (i) before the books and accounts of the board as in this Ordinance prescribed have been audited for the period in respect of which the subsidy is applied for by such board;
  - (ii) unless the report of the auditor discloses that the board has incurred expenditure for the specific purpose of meeting maintenance costs in excess of its income for the financial year or period in respect of which such expenditure was incurred;
- (b) the Administrator shall before authorising the payment of any subsidy under this section satisfy himself that the inability of the board to meet its financial obligations is due to circumstances beyond the board's control;
- (c) the aforesaid subsidy shall not exceed the difference between the expenditure of the board and its income (including subsidies which may be paid to such board under this Ordinance) in respect of such period or financial year.

**Discount on Fees in Respect of Treatment in General Wards and Subsidy Payable as a Result thereof.**

57. (1) The Administrator may by proclamation in the *Gazette* fix a date from which every board shall allow a discount of twenty per cent. on all charges levied by the board in respect of European in-patients in the general wards of any public hospital under the control and management of such board; provided that if a board or any person duly authorised thereto by the board causes a European in-patient in a general ward of a public hospital under the control and management of such board to be accommodated in any other ward which is not a general ward such other ward shall for the purposes of this section be deemed to be a general ward.

(2) In addition to any subsidies which may be paid to a board under this Ordinance, there shall be paid to a board a subsidy equivalent to the discount, if any, allowed by it under sub-section (1) of this section; provided that in respect of the calendar year ending on the 31st day of December, 1943, the aforesaid subsidy shall be calculated on the discount allowed as from the date of the proclamation issued under sub-section (1) of this section.

(3) The provision of sub-sections (1) and (2) of this section shall not apply to or in respect of—

(a) any in-patient who is not resident in the province of Transvaal;

(b) any person who is an in-patient as a result of an accident or injury and is entitled to the payment of medical or hospital fees under the Workmen's Compensation Act, 1941 (Act No. 30 of 1941) or any amendment thereof or under any other law or under any industrial agreement, insurance policy or insurance scheme or under any scheme or agreement which provides for the payment of medical or hospital fees;

(c) any in-patient who is a member of any force or service established by or under the South Africa Defence Act, 1912 (Act No. 13 of 1912), as amended, or any proclamation or regulation validated by section two of the War Measures Act, 1940 (Act No. 13 of 1940) or who is a member of His Majesty's Naval, Military or Air Forces or of the Naval, Military or Air Forces of any other country or who is a prisoner of war;

(d) any in-patient who by virtue of his employment in the service of any Department of State in the Union is entitled to medical or hospital treatment at the expense of such Department.

(4) For the purposes of this section the expression "general ward" means a room or ward constructed, designed and specially set aside for the accommodation therein of more than two in-patients.

#### **Subsidy in Respect of District Nursing Services.**

58. Whenever a nursing or midwifery service is with the approval of the Administrator, maintained outside a public hospital but in connection therewith, by a board having the control and management of such hospital, the Administrator may, in his discretion authorise the payment to such board, by way of subsidy of an amount not exceeding two-thirds of the total cost of such service; provided that such subsidy shall not be paid unless—

(a) The Minister of Public Health has undertaken to refund to the Administration one-half of such subsidy, in terms of section *thirteen* of the Public Health Amendment Act, 1935 (Act No. 57 of 1935), and

(b) a city council, town council, village council or health committee, as the case may be, or any person or body of persons approved of by the Administrator, has undertaken to pay the difference between such total cost and the amount of the subsidy authorised under this section.

#### **Subsidy to Boards Constituted for Chronic Sick Homes for Children.**

59. (1) The provisions of sections *fifty-two* to *fifty-eight* inclusive shall not apply to any hospital which is with the Administrator's consent exclusively used as a chronic sick home for European children under the age of nineteen years.

(2) The Administrator may from time to time authorise the payment to the board of any hospital referred to in sub-section (1) of this section of a subsidy which together with all revenues received by such board shall balance the account in respect of such hospital each financial year.

#### **Manner of Payment of Subsidies.**

60. (1) Subsidies payable under this Ordinance shall be paid in such manner as the Administrator may determine.

(2) The Administrator may from time to time make advance payments to a board against the subsidy which he estimates will become payable to the board under the provisions of this Ordinance.

#### **Grants in Aid of New Buildings.**

61. Where a provisional hospital committee or a board has collected funds for the specific purpose of meeting the cost of the erection and equipment of buildings it shall be lawful for the Administrator to contribute to the funds of the board established or to be established under this Ordinance on such conditions as he may prescribe on the £ for £ basis, up to an amount not exceeding one-half of the actual cost of such erection and equipment; provided, however, that no such contribution shall be made on any monies received by the board by way of subsidy or in respect of which subsidy has already been paid under this Ordinance.

#### **Provincial Administration Not to be Relieved of Certain Capital Expenditure.**

62. Notwithstanding anything to the contrary in this Ordinance contained, the Administration shall not be relieved of any liability in respect of any undertaking given to a hospital committee by the Administrator prior to the com-

mencement of this Ordinance to provide capital funds for the building and equipment of any new hospital or to provide capital funds or a grant in aid for the extension of an existing hospital and no interest or redemption charges shall be payable by a board in respect of any such capital funds.

#### Collectors.

63. (1) A board may from time to time appoint such persons as it may think fit for the purpose of collecting gifts, donations and voluntary contributions for any purpose within the powers of the board.

(2) Proper records shall be kept by the board of all collectors and collections.

(3) All monies collected for the board shall be applied to the purposes for which they were collected.

(4) The provisions of the Charitable Institutions (Control) Ordinance, 1926 (Ordinance No. 5 of 1926), as amended, shall not apply to any public hospital.

#### Fees and the Recovery Thereof.

64. (1) From and after the commencement of this Ordinance all fees received by a board and all other receipts shall be retained by the board.

(2) All fees charged by the board under this Ordinance or any regulation made under this Ordinance shall be a debt due to the board and may be sued for and recovered by the board by action in any court of competent jurisdiction.

(3) The charges for relief granted by or at the expense of a board to a married woman or a minor shall without excluding the liability at common law, if any, of the person so relieved, constitute a debt due to the board by the husband of the married woman, or the father, mother or guardian of the minor, as the case may be, and may be sued for and recovered by the board by action in any court of competent jurisdiction.

(4) The charges recoverable in respect of relief granted to a person shall—

(a) in the case of full-paying patients be the charges prescribed by regulation made under paragraph (a) of sub-section (1) of section *fifty*;

(b) in the case of any other patients be the amount, if any, assessed in terms of sub-section (3) of section *forty-eight*; provided that if any such assessment is varied under that sub-section the aforesaid charges shall be the amount, if any, determined by the board or committee, as the case may be.

#### Application of Trust Monies.

65. When any money is received by a board by way of bequest or gift in trust for the purposes of any public hospital, all such monies shall, save as far as it is otherwise provided by the terms of the bequest or gift, be applied in such a manner as the board may think fit, in or towards the permanent improvement of such hospital or the extension of the objects for which such hospital has been established, or shall be invested by the board. If such money is invested by the board the income of such investments shall be appropriated and used for the purposes of such hospital.

#### Banking and Investment of Monies.

66. (1) All monies belonging to a board shall, pending investment or expenditure in accordance with this Ordinance, be paid into such bank as the board may from time to time determine and shall be paid out by means of cheques signed by a member or members authorised by the board to sign cheques on its behalf, and countersigned by an officer of the board duly authorised thereto by the board.

(2) Whenever any subscription, gift, donation or bequest is received by a board, and the donor or testator, as the case may be, has not specified for what purpose it shall be used, the board may invest it in one or more of the forms of security or loans mentioned in sub-section (3); provided that the Administrator may at any time authorise a board to withdraw any amount so invested, or any portion thereof and to use any amount so withdrawn for such expenditure on capital account as may be approved of by him.

(3) All monies held in trust by a board, except patients' trust monies held for safe-keeping shall, pending the application thereof in accordance with the terms of the trust, be invested at the discretion of the board either in the manner directed or authorised by the trust, or in default of any such direction in one or more of the following:—

(a) the stocks and securities issued by the Government of the Union;

(b) the stocks, securities, debentures, mortgages, or debenture stock of any railway, tramway, dock, harbour, water works, or electricity supply corporation created by special legislative enactment in the Union, or with the approval of the Administrator, any other corporation or body within the Union, established under statute in the Union;

(c) fixed deposits with any bank lawfully carrying on the business of banking within the Union and approved of by the Administrator;

(d) fixed deposits with any building society duly registered as such under the building society laws of the Union:

(e) the stocks and securities of any local authority in the Union constituted by or pursuant to any law in the Union, and authorised by law to levy rates upon immovable property;

(f) loans made by any hospital board constituted under section eight;

(g) first mortgage of immovable property in the Union; provided that—

(i) the consent of the Administrator shall be obtained prior to the investment;

(ii) the maximum amount to be advanced on the specific security shall be determined by the Administrator.

#### **Reserve and Renewals Funds.**

67. (1) (a) A board shall retain credit balances on revenue and expenditure account primarily for the purpose of meeting any deficiency which may occur from time to time, provided that when such balances have reached an amount equal to not less than five per cent. of the previous year's maintenance expenditure any excess over such amount may, with the Administrator's prior approval, be appropriated for such hospital services as the board may determine.

(b) Any balance accumulated in terms of paragraph (a) of this sub-section may be invested in accordance with the provisions of sub-section (3) of section sixty-six.

(2) (a) The Administrator may from time to time require any board to create and maintain a separate fund or account for the purpose of meeting therefrom the cost of the maintenance and replacement of the board's depreciating assets at any public hospital under the control and management of such board.

(b) Where the Administrator has in terms of paragraph (a) of this sub-section required a board to create and maintain a fund or account he may from time to time by regulation determine the proportion of the annual income of such board to be annually paid by it into the said fund or account and generally make provision for the administration of such fund or account.

#### **Preservation of Existing Funds.**

68. Every endowment fund or other fund for a special purpose, from whatever source received, which is possessed by a hospital committee at the commencement of this Ordinance, shall be retained by the board as an endowment or for such special purpose and shall not be treated as revenue within the meaning of section sixty-nine. These provisions shall, however, not apply to the interest earned by any such fund, and nothing herein contained shall prevent the board from diverting, with the previous sanction of the Administrator, any monies in such fund not specifically given or bequeathed as an endowment or for a special purpose, for any other purpose on which expenditure may be lawfully incurred by a board under this Ordinance.

#### **Estimates.**

69. (1) Every board shall in the month of September of each year submit to the Administrator estimates in such form as he may prescribe in respect of the succeeding year of—

(a) revenue and expenditure on maintenance account;

(b) receipts and payments on capital account.

(2) Every board shall notify the Administrator from time to time of any subsequent variations contemplated in the estimates so submitted.

(3) The Administrator shall refer such estimates to the council for report.

(4) If the Administrator is of opinion that there are any matters which should be brought to the attention of the board he shall cause the same to be done.

(5) For the purposes of this section "maintenance account" means—

(a) the cost of general administration of a board's activities;

(b) the cost of carrying on the matters entrusted to a board, when such cost does not fall to be treated as capital expenditure;

(c) the interest and redemption charges for which a board is liable;

"capital account" means expenditure incurred upon the acquisition or initial layout of land, the erection, construction, acquisition or extension of any building and the purchase of such articles of machinery and plant, furniture, fixtures, fittings and equipment as are necessary to establish a hospital or to equip any extension thereto or any new building of an existing hospital.

#### **Incurring of Expenditure.**

70. A board may incur all expenditure necessary for the carrying out of any purpose of this Ordinance or any amendment thereof which the board is authorised to carry out, or with the prior approval of the Administrator of any purpose not specially provided for in this Ordinance which the Administrator may determine to be a purpose incidental to the exercise by the board of its powers and duties under this Ordinance.

#### **Loans.**

71. (1) The Administrator may, subject to the provisions of this Ordinance

and out of such monies as the Provincial Council may from time to time appropriate for the purpose grant loans to a board for any or all of the following purposes—

(a) the erection, construction, acquisition, extension or improvement of any building;

(b) the acquisition of land or rights or interest in or over land;

(c) the carrying out of any work of a permanent nature in relation to a matter entrusted to a board;

(d) the repayment of any loan (other than a loan from the Administration) for any of the purposes mentioned in paragraphs (a), (b) and (c) of this sub-section.

(2) A board may from time to time raise such loans as may be approved by the Administrator for any or all of the following purposes:—

(a) the erection and equipping of buildings;

(b) additions or alterations to buildings;

(c) the purchase of land for hospital purposes;

(d) the repayment of any loan for which the board is liable; and

(e) such other purposes of a capital nature as may be approved by the Administrator.

(3) Every loan raised in terms of sub-section (1) or (2) shall be in such amounts and on such conditions as may be approved by the Administrator and the interest due thereon and the repayments of loan shall be borne in equal proportions by the Administration and the board, provided that—

(a) in the case of a loan raised to meet the cost of extensions and equipment intended mainly for the use of full-paying patients the board shall bear the whole cost of the loan repayments and interest;

(b) if a loan has been obtained by the board for any of the purposes mentioned in sub-section (1) or (2) and the board subsequently obtains a further loan or loans for the completion of the matter in respect of which the original loan was obtained the Administrator may, notwithstanding anything to the contrary in this sub-section contained, determine that the full amount of the interest due on such further loan or loans be paid by the board and that the full amount of such further loan or loans be repaid by the board.

(4) Any loan and interest payments thereon shall be a charge against the assets and revenues of the board.

#### **Overdrafts.**

72. A board may obtain advances from any bank by way of overdraft in such amounts and on such conditions as the Administrator may approve.

#### **Books, Records and Accounts.**

73. (1) A board shall keep such books and accounts and render such returns as the Administrator after consultation with the council may from time to time prescribe.

(2) Separate accounts shall be kept in respect of all trust, endowment, sinking or renewals funds under the control of the board.

(3) All books and accounts shall at all reasonable times be open to inspection by any member of the board and by any person duly deputed thereto by the Administrator.

(4) The financial year of the board shall end on the 31st day of December in each year.

#### **Audit.**

74. (1) The Administrator shall appoint one or more persons who may be officers of the public service to examine from time to time the accounts and records of the board and the board shall, by the superintendent or other officer authorised by the board, produce and lay before the person or persons so appointed all books and statements of accounts and balance sheets of the board prepared by the said superintendent or other authorised officer together with all vouchers in support of the same, and all books, papers, writings and minute books in their power relating thereto, but these may at no time be removed from the officers of the board without the express sanction of the chairman or secretary of the board.

(2) The board may submit a recommendation to the Administrator in regard to the person or persons to be appointed as auditors.

(3) The board shall pay to the Administrator within three months from the date of the auditor or auditors appointed under sub-section (1) of this section signing and certifying the accounts of the board for any one financial year, such sum as the Administrator may in each case determine as having been the cost of the audit of such accounts; provided that the amount so determined, in which if necessary a charge for non-audit work may be included, shall not exceed one per cent. of the normal expenditure as certified by the auditor, subject to a minimum of £5.

(4) Notwithstanding anything to the contrary in sub-section (3) of this section contained the fee to be paid to any auditor appointed under sub-section (1) of this section who is not an officer of the public service, shall be determined by the Administrator. When due, such fee shall be paid to the auditor by the Administrator and recovered from the board within three months of demand.

(5) Hospital audit fees when received shall be paid into the Provincial Revenue Fund.

(6) It shall be the duty of any auditor appointed under sub-section (1) of this section to furnish to the Administrator a report in writing in the manner prescribed and to certify not less than once in each financial year whether or not—

(a) the accounts of the board are in order;

(b) the accounts and balance sheets are properly drawn up so as to exhibit a true and correct view of the affairs of the public hospital concerned as shown by the books of that hospital;

(c) the financial provisions of the law relating to public hospitals have been observed;

(d) all his requirements and recommendations as auditor have been complied with and carried out.

(7) For the purposes of any audit under this section the provisions of sections *sixty* and *sixty-one* of the Local Government Ordinance, 1939 (Ordinance No. 17 of 1939) shall apply *mutatis mutandis*.

(8) Notwithstanding the provisions of this section any additional auditor appointed by any board prior to the coming into operation of the Public Hospitals Amendment Ordinance, 1936 (Ordinance No. 11 of 1936), may continue in office as an auditor for the period for which and subject to the conditions under which he was appointed.

#### **Administrator to be Furnished with Records, etc.**

75. (1) The board shall furnish the Administrator with a certified copy of any record or minute of its proceedings, or of the proceedings of any committee appointed by the board or of a record of any accounts of the board, or such reports, statistics and documents as the Administrator may from time to time require.

(2) Minutes of the proceedings of each meeting of the board or of a committee thereof shall be forwarded by the board to the Administrator within seven days of the date on which such minutes were confirmed.

(3) It shall be the duty of the board to distribute annually printed or type-written copies of the board's annual report as also audited accounts and balance sheets for the preceding year to every member of the board, every contributor to a public hospital under the control and management of the board and every newspaper circulating in the locality and as far as possible to members of the general public.

#### **Central Medical Store.**

76. (1) The Johannesburg Hospital Board shall so long as it may be required by the Administrator so to do supply on repayment as nearly as possible at inclusive cost price any drugs, dressings or medical requisites on requisition by any other board.

(2) The Johannesburg Hospital Board may with the approval of the Administrator supply on repayment as nearly as possible at inclusive cost price any drugs, dressings or medical requisites to any clinic established, maintained, organised, controlled or carried on by a local authority under the provisions of any law or to such other clinics as the Administrator may approve.

#### **\*CHAPTER V.**

##### *General.*

#### **Administrator may Frame Regulations.**

†77. The Administrator may, from time to time, by notice in the *Gazette*, make such regulations, not inconsistent with this Ordinance, as he may deem necessary or expedient for the better carrying out of the purposes of this Ordinance, and where the provisions of any regulation made by the Administrator under this section are inconsistent with any regulation framed by the board under section *fifty*, the regulation made under this section shall prevail.

#### **Administrator may Rectify Things Irregularly Done, etc.**

78. Where by misadventure, accident or mistake, whether of law or fact, anything is at any time done after the time or is not done within the time required by this Ordinance, or is otherwise irregularly done in matter of form, the Administrator may, in writing under the hand of the Provincial Secretary,

\* Chapter substituted by section *eleven* of Ordinance No. 14 of 1943.

† As substituted by section *fourteen* of Ordinance No. 11 of 1936.

make provision for any such case, or may extend the time within which anything is required to be done, or may validate anything so done after the time required or so irregularly done in matter of form so that the true intent and purpose of this Ordinance may have effect, but no such action shall affect any judicial proceedings theretofore instituted or any judgment, decree or other decision thereupon made or given by any Court.

#### **Continuance of Central Equipment Store.**

79. (1) The board of every public hospital which was being supplied with articles of equipment from the central store established by the Administration before the commencement of this Ordinance shall continue to obtain on repayment any such equipment from such store.

(2) Every such board on giving twelve months' notice in writing of its intention so to do may at the expiration of such period make its own arrangements for the supply of such equipment.

(3) The Administration may, on giving six months' notice to such boards of its intention so to do, cease to supply such equipment, and may at any time before or after the expiration of such period of six months issue such instructions to boards requiring articles of equipment still held in such store as will enable it to dispose of such articles as may still be serviceable to such boards.

#### **Inspection of Hospitals.**

80. (1) The Administrator may authorise an officer of the Union Health Department or any other officer to inspect on his behalf any public hospital and may also authorise any such officer to inspect on his behalf any hospital not being a public hospital towards the maintenance of which a grant-in-aid is paid out of the Provincial Revenue Fund, or moneys are collected from the general public.

(2) Such officer shall for the purposes of such inspection have access to any part of such hospital and to any books or other records kept by the board, or in the case of a hospital not being a public hospital by the managing body or committee thereof.

(3) A copy of any report furnished by such officer shall be forwarded to the board or the managing body or committee as the case may be.

#### **Administrator may Withhold Subsidy in Any Year.**

\*81. In the event of all the hospitals of a board being closed in terms of section *forty-five* of the principal law, the Administrator may dissolve the board and thereupon all movable and immovable property of every description which vested in terms of law in the board so dissolved shall become vested in the Administrator who may sell the movable property and take such legal steps as may be necessary for the final disposal of the immovable property: provided that no such steps shall be taken in the case of any immovable property transferred to the board by the Government until the Administrator has consulted the Minister of Lands.

#### **Hours of Duty of Nurses.**

†82. Notwithstanding anything to the contrary contained in the Private Hospitals Ordinance 1919 and any amendment thereof the hours of duty prescribed for nurses in the employ of boards under this Ordinance other than of boards of public hospitals classified in terms of section *five* as second class clearing hospitals shall not exceed those prescribed for private hospitals, and the provisions of the said Ordinance relating to the employment of nurses and the keeping of registers shall *mutatis mutandis* apply to all public hospitals; provided that in the case of a public hospital the Administrator may on the application of the board relax the requirements regarding the keeping of registers and thereupon the provisions of the said Ordinance relating to the keeping of registers shall not apply to such hospital.

*Section fifteen of Ordinance No. 11 of 1936 provides:*

#### **Time Limit for Actions.**

15. Any civil action against a board shall be commenced within six months of the time when the cause of such action arose.

#### **Repeal of Laws.**

83. The Hospital Nurses Relief Ordinance 1917 and the Hospital Committees Ordinance 1917 shall be and are hereby repealed.

#### **Short Title.**

84. This Ordinance may be cited for all purposes as the Public Hospitals Ordinance 1928.

\* As substituted by section *thirty-two* of Ordinance No. 22 of 1931.

† As amended by section *seven* of Ordinance No. 19 of 1930 and section *eleven* of Ordinance No. 20 of 1940.



FIRST SCHEDULE.

SECTION EIGHT.

Hospital Committees constituted Boards under the provisions of this Ordinance :—

(a) *Provincial Hospitals.*

Barberton Hospital Committee.  
Boksburg Hospital Committee.  
Germiston Hospital Committee.  
Johannesburg Hospital Committee.

Klerksdorp Hospital Committee  
Krugersdorp Hospital Committee.  
Pietersburg Hospital Committee.  
Pretoria Hospital Committee.

(b) *Aided Hospitals.*

Duivelskloof Hospital Committee.  
Ermelo Hospital Committee.  
Far East Rand Hospital Committee.  
Heidelberg Hospital Committee.  
Lichtenburg Hospital Committee.  
Lydenburg Hospital Committee.  
Middelburg Hospital Committee.

Potchefstroom Hospital Committee.  
Rooiapoort Hospital Committee.  
Rustenburg Hospital Committee.  
Sabie Hospital Committee.  
Schweizer Reneke Hospital Committee.  
Stanlerton Hospital Committee.  
Wolmaransstad Hospital Committee.

SECOND SCHEDULE.

SECTION FORTY-EIGHT.

Ward \_\_\_\_\_ Hospital. \_\_\_\_\_  
No. \_\_\_\_\_  
Date \_\_\_\_\_  
Time \_\_\_\_\_

FORM OF ADMISSION.

To be completed in cases prescribed by section forty-eight of the Public Hospitals Ordinance, 1928, by or on behalf of patients seeking admission.

This is to be signed by the patient or by a person responsible for the patient.  
This recommendation to be subject finally to the approval of the Officer-in-Charge before admission.

- |   |           |
|---|-----------|
| 1. Full name.....   | 1. _____  |
| 2. Occupation.....  | 2. _____  |
| 3. Address.....   | 3. _____  |
| 4. Where born and age?.....   | 4. _____  |
| 5. What is your religion?.....  | 5. _____  |
| 6. How long have you been ill?.....   | 6. _____  |
| 7. What medical man has attended you during present illness, and for how long?.....       | 7. _____  |
| 8. Are you married or single?.....  | 8. _____  |
| 9. If married, how many of a family have you, or who is dependent on you?.....            | 9. _____  |
| 10. What is your income from salary, wages, or any other source?.....                     | 10. _____ |
| 11. Have you any movable or immovable property; describe and give the value thereof?..... | 11. _____ |
| 12. Do you belong to any Benefit Society?.....  | 12. _____ |
| 13. Give the names of friends to refer to—  | (1) _____ |
|   | (2) _____ |
|   | (3) _____ |

\* To the Officer-in-Charge.  
Assessed at \_\_\_\_\_ per diem.

Signature of Applicant.

Admit above as a \_\_\_\_\_  
Almoner.  
Patient.

Officer-in-Charge.

\* As amended by section thirty-three of Ordinance No. 22 of 1931 and section twelve of Ordinance No. 14 of 1943.

THIRD SCHEDULE.

SECTION SEVENTY.

Where the total expenditure of the board which has been brought to account as certified by the auditor for the financial year does not exceed—

- (a) £2,500, one per cent. of such expenditure—minimum £5;
- (b) £10,000, three-quarter per cent. of such expenditure—minimum £25;
- (c) £20,000, five-eighths per cent. of such expenditure—minimum £75;
- (d) Over £20,000, one-half per cent. of such expenditure—minimum £125.

**No. 19 of 1928.—Shop Hours Amendment.—Principal Ordinance No. 5 of 1923.**  
Section 1.—Amends section 3 of the Principal Ordinance.

Section 2.—Amends the Schedule to section 4 of the Principal Ordinance.

Sections 3 and 4.—Repealed by the Shops and Offices Act No. 41 of 1939.

Section 5.—Repeals the Shop Hours Amendment Ordinance, 1927, and the Shops Hours Further Amendment Ordinance, 1927.

Section 6.—Short Title.

**No. 20 of 1928.—Local Government Further Amendment.—Repealed by Ordinance**

**No. 21 of 1928.—Unauthorized Expenditure (1926-1927).**

1929.

**No. 1 of 1929.—Appropriation (Part 1929-1930).**

**No. 2 of 1929.—Additional Appropriation (1928-1929).**

**No. 3 of 1929.—Education Act Amendment.**

**No. 4 of 1929.—Local Government Amendment.—Repealed by Ordinance No. 17 of 1939.**

**No. 5 of 1929.—Warmbaths (Control and Management).—***Repealed by Ordinance No. 10 of 1933.*

**No. 6 of 1929.—Motor Vehicle Amendment.—***Repealed by Ordinance No. 17 of 1931.*

**No. 7 of 1929.—Public Hospitals Amendment.—***Principal Ordinance No. 18 of 1928.*

*Section 1.—Amends section 9 of the Principal Ordinance.*

*Section 2.—Adds a new sub-section (7) to section 13 of the Principal Ordinance.*

*Section 3.—Amends section 48 of the Principal Ordinance.*

*Section 4.—Repealed by section 18 of Ordinance No. 22 of 1931.*

*Section 5.—Conducts of Election of Elective Members. Embodied in the revised print after section 13 of the Principal Ordinance.*

*Section 6.—Short Title.*

**No. 8 of 1929.—Transvaal Hospital and School Board Officials Pensions Amendment.—***Principal Ordinance No. 14 of 1927.*

*Section 1.—Amends section 1 of the Principal Ordinance.*

*Section 2.—Amends section 2 of the Principal Ordinance.*

*Section 3.—Amends section 3 of the Principal Ordinance.*

*Section 4.—Amends section 4 of the Principal Ordinance.*

*Section 5.—Amends section 5 of the Principal Ordinance.*

*Section 6.—Deletes sub-sections (3) and (4) of section 6 of the Principal Ordinance and adds a new sub-section (3).*

*Section 7.—Substitutes a new section 7 in the Principal Ordinance.*

*Section 8.—Amends section 9 of the Principal Ordinance.*

*Section 9.—Amends section 11 of the Principal Ordinance.*

*Section 10.—Amends section 12 of the Principal Ordinance.*

*Section 11.—Amends section 14 of the Principal Ordinance.*

*Section 12.—Amends section 15 of the Principal Ordinance.*

*Section 13.—Amends section 16 of the Principal Ordinance.*

*Section 14.—Amends section 17 of the Principal Ordinance.*

*Section 15.—Amends section 18 of the Principal Ordinance.*

*Section 16.—Amends section 19 of the Principal Ordinance.*

*Section 17.—Amends section 22 of the Principal Ordinance.*

*Section 18.—Amends section 23 of the Principal Ordinance.*

*Section 19.—Amends section 24 of the Principal Ordinance.*

*Section 20.—Amends section 28 of the Principal Ordinance.*

*Section 21.—Amends section 31 of the Principal Ordinance.*

*Section 22.—Amends section 32 of the Principal Ordinance.*

*Section 23.—Amends section 33 of the Principal Ordinance.*

*Section 24.—Repeals sub-section (3) of section 31 of the Public Hospitals Ordinance No. 18 of 1928.*

*Section 25.—Provides when contributions are payable to the Administration. Embodied after section 19 in the revised print of the Principal Ordinance.*

*Section 26.—Short Title.*

**No. 9 of 1929.—Transvaal Hospital Nurses' Pensions Amendment.—***Principal Ordinance No. 13 of 1919.*

*Section 1.—Amends section 1 of the Principal Ordinance.*

*Section 2.—Amends section 2 of the Principal Ordinance.*

*Section 3.—Amends section 3 of the Principal Ordinance.*

*Section 4.—Amends section 4 of the Principal Ordinance.*

*Section 5.—Amends section 5 of the Principal Ordinance.*

*Section 6.—Repealed by section 5 of Ordinance No. 9 of 1941.*

*Section 7.—Amends section 7 of the Principal Ordinance.*

*Section 8.—Amends section 8 of the Principal Ordinance.*

*Section 9.—Amends section 9 of the Principal Ordinance.*

*Section 10.—Amends section 10 of the Principal Ordinance.*

*Section 11.—Amends section 11 of the Principal Ordinance.*

*Section 12.—Amends section 12 of the Principal Ordinance.*

*Section 13.—Amends section 13 of the Principal Ordinance.*

*Section 14.—Amends section 14 of the Principal Ordinance.*

*Section 15.—Amends section 15 of the Principal Ordinance.*

*Section 16.—Amends section 16 of the Principal Ordinance.*

*Section 17.—Amends section 17 of the Principal Ordinance.*

*Section 18.—Amends section 18 of the Principal Ordinance.*

*Section 19.—Amends section 21 of the Principal Ordinance.*

*Section 20.—Amends section 22 of the Principal Ordinance.*

*Section 21.—Amends section 29 of the Principal Ordinance.*

*Section 22.—Amends section 30 of the Principal Ordinance.*

*Section 23.—Amends section 31 of the Principal Ordinance.*

*Section 24.—Contains provisions with regard to probationers and is incorporated, after section 6, in the revised print of the Principal Ordinance.*

*Section 25.—Provides that deductions from emoluments are to be paid to the Administration. This section is now embodied as following on section 24 (above) in the reprint of the Provincial Ordinance.*

*Section 26.—Short Title.*

**No. 10 of 1929.—School Board Election.—Obselete.**

**No. 11 of 1929.—Appropriation (1929-1930).**

**No. 12 of 1929.—Transvaal Teachers' Pensions Amendment.—Principal Ordinance No. 5 of 1916.**

*Section 1.—Amends section 6 of the Principal Ordinance.*

*Section 2.—Amends section 10 of the Principal Ordinance.*

*Section 3.—Short Title.*

1930.

**No. 1 of 1930.—Unauthorized Expenditure (1927-1928).**

**No. 2 of 1930.—Additional Appropriation (1929-1930).**

**No. 3 of 1930.—Appropriation (Part 1930-1931).**

**No. 4 of 1930.]**

[Assented to 19th March, 1930.]

AN ORDINANCE.

*To Restrict, Supervise and Regulate Trading by Hawkers and Pedlars.  
(English copy signed by Governor-General.)*

BE IT ENACTED by the Provincial Council of Transvaal as follows:—

**Definitions.**

1. In this Ordinance—

“Hawker” means any person who, whether as principal agent or employee carries on, under a licence duly issued to him in terms of the Licences Consolidation Act, 1925, or any amendment thereof, the trade or business of offering or exposing for sale, barter or exchange elsewhere than at a fixed place any goods, and for that purpose travels about from place to place with goods on any vehicle (other than a vehicle propelled by himself) or with a pack animal or carrier; but does not include any person as aforesaid who hawks fresh fruit or vegetables and no other goods or any person mentioned in the exemptions under item 12 Hawker of the Second Schedule to the said Act as amended by section *three (a)* of the Licences (Amendment) Act, 1927;

“municipality” means the area placed under the control and jurisdiction of a city council or of a town council or of a village council or of a health committee constituted under the Local Government Ordinance, 1926;

“pedlar” means any person who, whether as principal, agent, or employee carries on, under a licence duly issued to him in terms of the Licences Consolidation Act, 1925, or any amendment thereof, the trade or business of offering or exposing for sale, barter or exchange elsewhere than at a fixed place any goods and for that purpose travels from place to place either on foot or with a vehicle propelled by himself; but does not include any person as aforesaid who peddles fresh fruit or vegetables and no other goods or any person mentioned in the exemptions under item 19 Pedlar of the Second Schedule to the Licences Consolidation Act No. 32 of 1925 as amended by section *three (b)* of the Licences (Amendment) Act, 1927.

**Restriction as to Place.**

\*2. (1) On and after the date of the commencement of this Ordinance it shall not be lawful for any person to carry on the business of a hawker or pedlar at any place outside a municipality being within one mile of the place of business of any person who is the holder of a licence issued under the provisions of the Licences Consolidation Act, 1925, and any amendment thereof authorizing such person to carry on the trade of a general dealer. Any person who carries on trade or business in contravention of the provisions of this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding £50 or in default of payment to undergo imprisonment without hard labour for a period not exceeding three months.

(2) No person shall outside a municipality carry on the trade or business of a hawker or pedlar upon any premises or enter thereon for the purpose of carrying on such trade or business without first having obtained the permission of the owner or occupier of such premises so to do. The expression “premises” for the purposes of this sub-section includes any farm, land, building or private road but does not include a public road.

**Repeal.**

3. The Hawkers and Pedlars Ordinance, 1928, shall be and is hereby repealed.

**Short Title.**

4. This Ordinance may be cited for all purposes as the Hawkers and Pedlars Ordinance, 1930.

\* As amended by section *one* of Ordinance No. 4 of 1931.

**No. 5 of 1930.—Second Appropriation (Part 1930-1931).**

**No. 6 of 1930.—Provincial Roads in Municipalities.—Repealed by Ordinance No. 9 of 1933.**

**No. 7 of 1930.—Public Resorts.—Repealed by Ordinance No. 11 of 1933.**

**No. 8 of 1930.—Local Authorities Roads Amendment.**

*Section 1.—Amends section 1 of Ordinance No. 41 of 1904.*

*Section 2.—Amends section 4 of Ordinance No. 44 of 1904.*

*Section 3.—Amends section 5 of Ordinance No. 44 of 1904.*

*Section 4.—Amends section 7 of Ordinance No. 44 of 1904.*

*Section 5.—Repealed by the Local Government Ordinance, 1939.*

*Section 6.—Short Title.*

**No. 9 of 1930.—Warmbaths (Control and Management) Amendment.—Repealed by Ordinance No. 11 of 1939.**

**No. 10 of 1930.—Third Appropriation (Part 1930-1931).**

**No. 11 of 1930.—Vermin Destruction Amendment.**

*Section 1.—Amends section 1 of Ordinance No. 19 of 1925.*

*Section 2.—Amends section 11 of Ordinance No. 19 of 1925.*

*Section 3.—Short Title.*

**No. 12 of 1930.—Lichtenburg School Board Election Validation.—Obsolete.**

**No. 13 of 1930.—Fourth Appropriation (Part 1930-1931).**

**No. 14 of 1930.—General Dealers (Control) Amendment.—Repealed by Ordinance No. 3 of 1932.**

**No. 15 of 1930.—Local Government Amendment.—Repealed by Ordinance No. 17 of 1939.**

**No. 16 of 1930.]**

[Assented to 12th July 1930.]

### AN ORDINANCE.

**To empower local authorities to make provision as to retiring pensions or other financial benefits payable to persons employed by local authorities.**

BE IT ENACTED by the Provincial Council of Transvaal as follows:—

(English copy signed by Governor-General.)

#### CHAPTER I.—GENERAL.

##### Definitions.

\*1. In this Ordinance unless inconsistent with the context—

“Actuary” shall mean a Fellow of the Institute of Actuaries of London or of the Faculty of Actuaries in Scotland or any other qualified person recognized as an actuary by the Governor-General;

“Administrator” shall mean the officer appointed under sub-section (1) of section *sixty-eight* of the South Africa Act, 1909, or any amendment thereof, acting on the advice and with the consent of the Executive Committee of the Province;

“fixed date” shall mean—

(a) in respect of a superannuation fund existing at the date of the adoption of the Ordinance, the fixed date determined by the rules or regulations of the fund; and

(b) in respect of any other superannuation fund, the date specified in sub-section (2) of section *two*; provided that, in respect of a local authority not having a superannuation fund becoming associated with the joint fund after the commencement of this Ordinance the fixed date shall be the date of adoption of this Ordinance;

“joint fund” shall mean the Joint Municipal Pension Fund adopted by the Town Councils of Benoni, Boksburg, Brakpan, Pietersburg, Roodepoort-Maraiburg and Rustenburg; and by any other local authorities that may become associated therewith;

“local authority” shall mean and include a city council, a town council, a village council or a health committee, and in relation to an employee or member shall mean the local authority employing such employee or member, and shall include any combination of local authorities under this Ordinance;

“new member” shall mean a member who becomes a member on or after the commencement of this Ordinance;

“old member” shall mean a member who became a member prior to the commencement of this Ordinance;

“superannuation fund” shall mean a superannuation or pension fund established by a local authority and shall include a fund or scheme of a local authority ensuring benefits to its employees upon retirement, and shall further include the joint fund.

##### Adoption of Ordinance by Local Authority having no Superannuation Fund.

2. (1) Subject to the provisions of sub-sections (2) and (3) of this section,

\* As amended by section *one* of Ordinance No. 10 of 1937.

this Ordinance may be adopted by a local authority not having a superannuation fund and not being associated with the joint fund.

(2) Such local authority if desirous of adopting this Ordinance shall prepare a scheme which shall provide that employees (as defined in section *nine*) shall join the fund under the provisions of Chapter II, and shall, *inter alia*, contain an estimate certified by an actuary of the cost of adopting the Ordinance and the date as from which the scheme shall come into operation.

(3) This Ordinance shall not apply to such local authority until such scheme shall—

(a) be adopted by the local authority by a resolution passed by a majority consisting of not less than two-thirds of the members of the local authority present and voting at a meeting called for the purpose of which a month's previous notice shall have been given to each of its members;

(b) be confirmed by such local authority at a regular meeting held not less than one month after the passing of such resolution; and

(c) be approved by the Administrator.

#### **Adoption of Ordinance by Local Authority having Existing Fund other than Joint Fund.**

3. (1) Subject to the provisions of sub-sections (2) and (3) of this section, this Ordinance may be adopted by a local authority having an existing superannuation fund and not associated with the joint fund.

(2) Such local authority if desirous of adopting this Ordinance shall prepare a scheme which shall be approved by an actuary and which shall, *inter alia*, provide—

(a) that the rights of existing members shall be safeguarded;

(b) that if no moneys have been accumulated a fund shall be established;

(c) that future employees (as defined in section *nine*) shall join the fund under the provisions of Chapter II;

(d) for the date as from which the scheme shall take effect.

(3) Such scheme shall come into operation upon receiving the approval of—

(a) the committee of management (if any) of the superannuation fund;

(b) a majority of the members contributing to such superannuation fund obtained in writing in such manner as the committee of management, or failing a committee of management, the local authority may determine;

(c) the local authority;

(d) the Administrator.

#### **Application of Ordinance to Joint Fund.**

4. The joint fund shall adopt this Ordinance as on and from a date to be fixed by Proclamation of the Administrator and it shall be the duty of the committee of management to prepare a scheme, which shall be approved by an actuary, for the sanction of the Administrator within twelve months from the commencement of this Ordinance. Such scheme shall, *inter alia*, provide for the following matters:—

(a) Members of the fund on the date fixed by the Administrator as aforesaid and who are members when the scheme shall be approved shall have the option within a period to be provided by the scheme, of remaining under and subject to the provisions of the rules approved under the Administrator's Notices Nos. 63, 143 and 623 of 1928, subject to any adjustments in benefits or contributions that may be rendered necessary on actuarial valuation.

(b) Such members who do not exercise this option shall come under the provisions of Chapter II and III of this Ordinance subject to payment of such rates of contribution as may be deemed necessary by the actuary having regard to the past continuous service of such members; provided that such rates shall be graded according to individual ages last birthday at the date of commencement of continuous service.

(c) Every employee in the service of the Town Councils of Benoni, Boksburg, Brakpan and Rustenburg who joined the joint fund as from the fixed date shall receive credit for any arrear contributions that have been paid by him or by any of such local authorities on his behalf in respect of service prior to the fixed date.

(d) Employees (as defined in section *nine*) of the local authorities associated with the joint fund and who shall join the service of one of such authorities on or after the date fixed by the Administrator as aforesaid shall join the joint fund under the provisions of Chapters II and III.

#### **Minimum Number of Employees for Separate Fund.**

5. Notwithstanding anything contained in this Ordinance, a local authority not having a superannuation fund which has in its service less than fifty employees (as defined in section *nine*) shall not be entitled to establish a separate fund.

**Local Authority with no Fund becoming Associated with Joint Fund.**

6. Notwithstanding the provisions of section *two*, a local authority not having a superannuation fund may adopt this Ordinance by becoming associated with the joint fund, subject to the approval of the committee of management of the joint fund and upon complying with the provisions of sub-sections (2) and (3) of section *two*.

**Local Authority with Separate Fund Becoming Associated with Joint Fund.**

7. (1) Subject to the provisions of sub-sections (2) and (3) of this section, a local authority having an existing superannuation fund may adopt this Ordinance by becoming associated with the joint fund.

(2) Such local authority shall prepare a scheme which shall be approved by an actuary and which shall, *inter alia*, provide—

- (a) that the rights of existing members shall be safeguarded;
  - (b) that future employees (as defined by section *nine*) shall join the joint fund under the provisions of Chapters II and III;
  - (c) that the investments and other moneys of such superannuation fund or such part thereof as may be required, shall be transferred to the joint fund, and that such further payments by or refunds to the local authority and employees shall be made as may be described in the scheme;
  - (d) for the date as from which the scheme shall take effect.
- (3) Such scheme shall come into operation upon receiving the approval of—
- (a) the committee of management (if any) of the superannuation fund;
  - (b) a majority of the members contributing to such superannuation fund obtained in writing in such manner as such committee of management, or, failing a committee of management, the local authority may determine;
  - (c) the local authority;
  - (d) the committee of management of the joint fund: and
  - (e) the Administrator.

**Admission to Fund of Employees of Adjacent Local Authority.**

8. Notwithstanding anything contained in this Ordinance, a local authority having a superannuation fund shall be empowered, subject to the approval of the committee of management (if any) of such fund and of the Administrator to admit any employee of an adjacent or approximately adjacent local authority to membership of such fund subject to such conditions as may be agreed upon.

## No. 16 of 1930.]

**LOCAL GOVERNMENT SUPERANNUATION.**

## CHAPTER II.—PROVISIONS WHERE ORDINANCE HAS BEEN APPLIED OR ADOPTED.

**Definitions.**

\*9. In this Chapter, unless inconsistent with the context—

“Annuity” shall mean an annual sum payable during the lifetime of a retiring member;

“committee” shall mean the committee of management appointed to administer a fund in accordance with this Chapter;

“continuous service” shall, subject to the provisions of this Chapter, mean the last unbroken service after the attainment of the age of seventeen years with a local authority provided—

(a) that the following shall not constitute breaks in service for the purpose of determining the last unbroken service—

- (i) authorised leave of absence;
- (ii) a break in service regarded as leave without pay or otherwise condoned by the committee;
- (iii) a period of suspension followed by reinstatement in the same or another office or post;

(b) that on and after the date of adoption of the Ordinance, any period without payment of contributions shall not be taken into account in calculating the period of continuous service;

(c) that in respect of members in the service of a local authority having or associated with a superannuation fund at the date of adoption of this Ordinance, the continuous service before such date shall mean the service recognised as pensionable by the rules of such superannuation fund, unless some other method of defining such continuous service be contained in the scheme for the adoption of the Ordinance;

(d) that the period of continuous service shall be calculated by the year and month and a fraction of a month shall be disregarded.

(e) that in the case of the joint fund service with a local authority shall be deemed to include service with all local authorities associated with the joint fund.

\* As amended by sections *two* and *twenty-one* of Ordinance No. 10 of 1937.

“contributions”, when applied to the payments made or to be made by a member, shall be calculated as if he had completed payment of his arrear contributions in terms of sub-section (3) of section *fourteen* of the principal Ordinance as amended by this Ordinance;

“dependent” shall mean, in relation to any person—

(a) a wife or widow, husband or widower, or minor child or step-child; or  
(b) a father, mother, brother, sister, or an adult child or step-child, wholly or in part dependent upon such person for support and maintenance; or

(c) any other person wholly dependent upon such person for support and maintenance who satisfies the committee that he is so dependent.

“employee” shall mean any person of European descent who is in the service of a local authority that has adopted this Ordinance in a permanent capacity, who devotes his whole time to the said service, and who has attained the age of seventeen years; no person who enters the service of a local authority after the date of adoption of the Ordinance and who is over fifty years of age shall for the purposes of this Chapter be regarded as an employee;

“fund” shall mean a superannuation fund to which this Ordinance has been applied and shall include the joint fund;

“medical board” shall mean the member’s own medical practitioner and a medical practitioner nominated by the committee; provided that if the members of such board cannot agree in regard to any case, they may appoint a medical practitioner to act with them as a third member of the medical board, or, failing agreement on such third member within a reasonable period, the chairman of the committee may appoint a medical practitioner to act as such third member; provided further that the report of the medical board need not be unanimous, but may be the report of the majority;

“member” shall mean a contributor to a fund or a person in receipt of an annuity from a fund;

“pension” shall mean an annuity or gratuity, as the context requires;

“pensionable emoluments” shall mean the emoluments on which contributions shall be paid, and shall include—

(a) salary or wages;

(b) the estimated rental value of quarters, whether belonging to the local authority or not, whenever occupation of quarters is allowed free of rent as a portion of the emoluments, or any allowance granted in lieu of the provision of free quarters; and free quarters shall for the purpose be assessed at one-sixth of the salary or wages; in this term shall not be included—

(i) any special remuneration which may be received for performing special duties or while acting in an office, whether permanently or temporarily vacant; or

(ii) any locomotion or subsistence allowance; or

(iii) any fees, honoraria or bonuses of any kind; or

(iv) overtime payment; or

(v) any other allowance not herein specified.

“pension age” shall mean in the case of—

(a) female members: 55 years;

(b) male members: 60 years.

“salary” or “wages” shall mean the annual, monthly or daily pay, including remuneration for piece work exclusive of all allowances, and shall not include payment for overtime or any bonus.

“secretary” shall mean the person appointed as such by the committee.

#### Application of Chapter.

10. The provisions of this Chapter shall apply only in respect of funds to which this Ordinance has been applied or adopted, provided that nothing in this Chapter shall be deemed to affect the rights of members of a superannuation fund existing at the date of adoption of the Ordinance as safeguarded in the scheme for such adoption.

#### Sources of Fund.

11. A fund shall consist of—

(a) contributions and interest paid into the fund in accordance with this Chapter;

(b) interest derived from the investment of any moneys of the fund;

(c) any other sums to which the fund may become entitled.

#### Employee at Date of Adoption of Ordinance.

\*12. (1) A local authority, not having a superannuation fund and not being associated with the joint fund, may, in its discretion, in the scheme for the adoption of the Ordinance, elect that the annuities, gratuities, or other benefits

\* As substituted by section *three* of Ordinance No. 10 of 1937 and amended by section *one* of Ordinance No. 12 of 1940 and section *two* of Ordinance No. 1 of 1943.

specified in the Ordinance and which are payable by that local authority in respect of the continuous service of its employees prior to the fixed date, shall be reduced to such a proportion, not being less than one-half, as it may determine, and such decision shall thereafter be binding upon the local authority; provided that no contributions shall be payable by any such employee in respect of such service.

(2) Such local authority shall contribute to the fund in respect of the continuous service of its employees prior to the fixed date, such sum as, in the opinion of the actuary, after taking into consideration the contributions payable from the fixed date, shall be required to provide the benefits granted by the fund. This initial contribution may be paid in one sum on the fixed date, or by instalments over a period of years, or partly in one sum and partly by instalments; provided that to the amount outstanding from time to time there shall be added interest at the rate of four per cent. per annum, compounding yearly from the fixed date; provided further that the amount outstanding at any time shall never exceed the amount that would have been outstanding had the local authority elected to contribute by equal annual instalments including principal and interest over a period of twenty years from the fixed date.

(3) Employees at the fixed date shall be obliged to become members of the fund; provided that a local authority may in its discretion exclude from membership any employees who are then over 40 years of age, and may further in its discretion make such superannuation arrangements for such employees as it may determine; provided that this substituted section shall not apply to any local authority or employees where the scheme was adopted prior to the commencement of this Ordinance.

*Sub-section (2) of section two of Ordinance No. 1 of 1943 provides:—*

(2) In respect of any local authority whose scheme has come into operation prior to the first day of July, 1941, section *twelve* of the principal ordinance shall be applied as if the amendment effected by sub-section (1) of of this section had not been made.

**Employees Joining Fund After Adoption of Ordinance.**

13. (1) Every employee who joins the service of a local authority on or after the date of adoption of this Ordinance shall produce to the committee such evidence of health as it may require, and upon the committee being satisfied that he is in a good state of health he shall be obliged to become a member of the fund; provided that in respect of the joint fund such date of adoption shall be the date referred to in section *four*.

(2) A member may not withdraw from membership while he remains in the service of the local authority, or in respect of the joint fund while he is in the service of the local authority associated with the joint fund.

**Contributions by Members.**

\*14. (1) Subject to the provisions of sub-section (2) of this section, every member shall contribute to the fund as from the date of the adoption of the Ordinance, or as from the date of commencement of continuous service, if later, in accordance with the following scale:—

Age last Birthday at Commencement of Continuous Service.	Percentage of Pensionable Emoluments.	Age last Birthday at Commencement of Continuous Service.	Percentage of Pensionable Emoluments.
<b>Male Members—</b>		<b>Female Members—</b>	
Up to 23 years .....	5½	Up to 20 years .....	7
24–28 years .....	6	21–23 years .....	7½
29–32 years .....	6½	24–26 years .....	8
33–36 years .....	7	27–29 years .....	8½
37–40 years .....	7½	30–32 years .....	9
41–43 years .....	8	33–35 years .....	9½
44–47 years .....	8½	36–38 years .....	10
48 years and over .....	9	39–41 years .....	10½
		42 years and over .....	11

Provided that this substituted sub-section shall in no way apply to contributions due in respect of any period prior to the commencement of this Ordinance, which shall be payable on the same terms and conditions as if this Ordinance had not been passed

(2) An employee who shall become eligible for membership after the date of adoption of this Ordinance, and who shall have had a prior period of temporary service with a local authority immediately preceding his appointment in a permanent capacity (provided that a break of not exceeding twelve months may be condoned by the committee) shall be entitled to date his membership

\* As amended by section *four* of Ordinance No. 10 of 1937 and section *three* of Ordinance No. 1 of 1943.



back to the date of commencement of his temporary service, or to a later date, and shall in that event pay contributions for such period together with interest at the rate of 5 per cent. per annum, compounding yearly; provided that the right is exercised within one month after the date on which the first contribution is actually paid, and that all arrear contributions with interest thereon shall be paid within two years thereafter, or within such further period as may be approved by the committee upon application by the employee.

(3) Where payment of such arrear contributions is being made by instalments, and the member dies or ceases to contribute to the fund before he shall have completed such arrear payments, then any benefit from the fund to which he or his dependents or estate are entitled shall be calculated as if he had completed payment of his arrear contributions, and in the case where a refund or gratuity is payable the balance of arrear contributions outstanding, including interest, shall be deducted from such refund or gratuity, and in the case where an annuity is payable the instalments outstanding shall be deducted from the annuity payments, and if death occurs before these are completed the balance outstanding shall be deducted from any payments from the fund to which his dependents or estate are entitled.

*Sub-section (2) thereof provides:—*

(2) Paragraph (a) of sub-section (1) of this section shall be deemed to have come into operation on the first day of July, 1941, but it shall not apply to contributions due in respect of any period prior to that date, which contributions shall be payable as if this Ordinance had not been passed.

#### **How Contributions by Members are to be Paid.**

15. (1) The contributions to be paid by any member to the fund shall be a first charge upon and shall be deducted monthly or at shorter intervals by the local authority from the salary or wages payable to such member.

(2) The treasurer of the local authority shall, as soon as possible after the expiry of each calendar month from the fixed date, certify to the secretary, in writing, the amount of the contributions and interest paid by members to the fund in the preceding month, and this amount shall be paid by the local authority to the fund, and he shall further supply to the secretary such information reasonably necessary for the purposes of this Ordinance as the committee may from time to time require.

#### **Contributions by Local Authority.**

16. Subject to the provisions of sub-section (2) of section *twenty-eight*, the local authority shall pay to the fund one pound for each one pound paid to the fund on all contributions and interest by members.

*Amended by section five of Ordinance No. 10 of 1937 by the deletion of the words—*

“with the exception of any arrear contributions and interest payable under the provisions of paragraph (a) of sub-section (2) of section *fourteen*,” and with the following proviso:

Provided that this amendment shall in no way apply to any such arrear contributions and interest due in respect of any period prior to the commencement of this Ordinance.

#### **Contributions Whilst on Leave.**

17. When a member is on leave with full pay or with pay less than full pay, he shall continue to contribute on the basis of his full pensionable emoluments. When a member is on leave without pay he may, on application, be permitted to contribute on the basis of his full pensionable emoluments for the calendar month immediately preceding the commencement of his leave without pay, but such application must be made and the amount due in respect thereof must be paid by the member within one month after his return to duty, provided that the member may, on making written application to the committee, be permitted to refund the amount in six or less monthly instalments from the emoluments payable to him. Failing such permission and such payment by the member, no contributions shall be collected or be payable in respect of any period of leave without pay, and no period in respect of which contributions are not so paid shall be reckoned in calculating the period of his continuous service.

#### **Method of Calculation of Retiring Benefit.**

\*18. (1) The retiring benefit payable to an old member shall consist of an annuity, which shall be based on the annual average of his pensionable emoluments for the last ten years of his continuous service, and shall be calculated at the rate of one-sixtieth for male members, and one-fifty-fifth for female members, of such average for each year of such service.

\* As substituted by section 4 of Ordinance No. 1 of 1943 and deemed in operation as from 1st July, 1941.

(2) The retiring benefit payable to a new member shall consist of

(a) an annuity, which shall be based on the annual average of his pensionable emoluments for the last ten years of his continuous service, and shall be calculated at the rate of one-eightieth for male members, and three-two-hundred-and-twentieths for female members, of such average for each year of such service; and

(b) a gratuity, which shall be equal to the following percentage of the annual average of his pensionable emoluments for the last ten years of his continuous service in respect of each year of such service;

(i) if retired in terms of section *twenty*, 4·5 per cent. if a male and 6·2 per cent. if a female;

(ii) if retired in terms of section *nineteen* or *twenty-one* according to the following scale:—

MALES.		FEMALES.	
Nearest Age at Date of Retirement.	Percentage.	Nearest Age at Date of Retirement.	Percentage.
Up to 30 years.....	7·4	Up to 30 years.....	8·3
31-32 years.....	7·3	31-32 years.....	8·2
33 years.....	7·2	33 years.....	8·1
34-35 years.....	7·1	34-35 years.....	8·0
36 years.....	7·0	36 years.....	7·9
37 years.....	6·9	37-38 years.....	7·8
38 years.....	6·8	39 years.....	7·7
39-40 years.....	6·7	40 years.....	7·6
41 years.....	6·6	41 years.....	7·5
42 years.....	6·5	42 years.....	7·4
43 years.....	6·4	43-44 years.....	7·3
44 years.....	6·3	45 years.....	7·2
45 years.....	6·2	46 years.....	7·1
46 years.....	6·1	47 years.....	7·0
47 years.....	6·0	48 years.....	6·9
48 years.....	5·9	49 years.....	6·8
49 years.....	5·8	50 years.....	6·7
50 years.....	5·7	51 years.....	6·6
51 years.....	5·5	52 years.....	6·5
52 years.....	5·4	53 years.....	6·4
53 years.....	5·3	54 years.....	6·3
54 years.....	5·2	55 years and over.....	6·2
55 years.....	5·1		
56 years.....	5·0		
57 years.....	4·8		
58 years.....	4·7		
56 years.....	4·6		
90 years and over.....	4·5		

#### Retirement at or After the Age of Superannuation or Within Preceding Five Years.

\*19. (1) When a member has attained the pension age, he shall retire from the service of the local authority.

(2) Upon a member retiring under the provisions of the preceding sub-section, he shall be granted a retiring benefit calculated as provided in section *eighteen*, provided he shall have had ten years' service with the local authority.

(3) A member who shall have attained an age five years earlier than the pension age, and who shall have had at least ten years' service with the local authority, may be required by the local authority to retire, in which event he shall be granted a retiring benefit calculated as provided in section *eighteen*; provided that all payments of annuity made before the member has reached the pension age shall be paid by such local authority out of its own revenue, and that if a gratuity should also be payable the amount thereof shall be paid partly out of the fund and partly out of the revenue of the local authority in accordance with tables approved by the committee on the recommendation of the actuary.

(4) Notwithstanding the provisions contained in the preceding sub-sections of this section, a member who shall have attained an age five years earlier than the pension age and shall have had at least ten years' service with the local authority, shall have the right to retire on a retiring benefit provided that from the amount of the retiring benefit, calculated as described in section *eighteen*, there shall be deducted two-fifths of one per cent. of such amount in respect of each month, or part thereof, by which the pension age exceeds the actual age of the member at the date of his retirement.

#### Retirement Upon Annuity Owing to Ill Health.

†20. (1) A member who has had at least ten years' service with a local authority and who is found by the committee, acting upon the advice of the

\* As substituted by section *seven* of Ordinance No. 10 of 1937.

† As substituted by section *eight* of Ordinance No. 10 of 1937.

medical board, to be permanently incapable of efficiently discharging his duties by reason of infirmity of mind or body caused without his own default, shall be retired and shall be entitled to receive a retiring benefit calculated as provided in section *eighteen*.

(2) If a member is so retired, but it is found by the committee that the infirmity was not caused without his own default, he shall be entitled to the gratuity specified in section *twenty-three* as if he had retired voluntarily.

**Retirement Upon Annuity Owing to Re-organisation, etc.**

\*21. If the employment of a member who has had at least fifteen years' service with a local authority is discontinued owing to a reduction in or reorganisation of staff, or to the abolition of his office or post, or in order to facilitate improvements in efficiency or organisation, or to retrenchment generally, he shall be entitled to receive a retirement benefit calculated as provided in section *eighteen*; provided that all payments of annuity made before the member has reached the pension age shall be paid by such local authority out of its own revenue, and that if a gratuity should also be payable the amount thereof shall be paid partly out of the fund and partly out of the revenue of the local authority in accordance with tables approved by the committee on the recommendation of the actuary.

**Gratuities on Retirement at Prescribed Age or Owing to Ill-health, Re-organisation, etc.**

‡22. A member who retires or is retired by a local authority under the provisions of section *nineteen* or of sub-section (1) of section *twenty*, but who has had less than ten years' service with such local authority, or who is retired under any of the provisions of section *twenty-one*, but who has had less than fifteen years' service with such local authority, shall on retiring be entitled to receive a gratuity equal to eight and one-third per cent. of his annual average pensionable emoluments calculated over the ten years of continuous service preceding retirement (or over the whole period of continuous service if shorter) in respect of each year of continuous service provided that the amount of such gratuity shall not be less than that which would have been payable if such member had retired voluntarily.

**Voluntary Retirement.**

‡23. If a member retires voluntarily from the service of a local authority, he shall be entitled to receive a gratuity equal to the amount of his contributions plus two per cent. of such amount in respect of each complete year by which his continuous service exceeds seven years.

**Female Member Leaving Owing to Marriage.**

§24. If a member being a female, is discharged from the service of a local authority on her marriage, or if she voluntarily retires from such service in contemplation of her marriage, and marries within three months after the retirement she shall receive—

(a) if she has had less than five years' service the return of her contributions;

(b) if she has had five years' service the return of twice the amount of her contributions.

**Member Re-joining Service of Local Authority.**

||25. If a member leaves the service of a local authority for any reason other than retirement upon a retiring benefit or dismissal, and if he should be re-employed by the same local authority—

(a) if the date of re-employment is within twelve months from the date of leaving the service, and if he so elects within one month from the date of re-employment, the break in service shall be condoned and he shall again contribute to the fund as from the date of re-employment; provided that if a gratuity should have been paid under section *twenty-two*, *twenty-three*, or *twenty-four*, the member shall repay to the fund, in one sum or in instalments approved by the committee, the amount of such gratuity together with interest at the rate of four per cent. per annum, compounding yearly from the date he received such gratuity up to the date or dates of payment;

(b) if the date of re-employment is not within twelve months from the date of leaving the service, or if he does not so elect, his previous service shall be disregarded and, provided he is eligible, he shall become a member as from the date of re-employment, in which event his continuous service shall be deemed to commence from the date of re-employment.

*As substituted by section thirteen of Ordinance No. 10 of 1937 and amended*

\* As substituted by section *nine* of Ordinance No. 10 of 1937.

† As amended by section *ten* of Ordinance No. 10 of 1937 and by section *five* of Ordinance No. 1 of 1943.

‡ As amended by section *eleven* of Ordinance No. 10 of 1937.

§ As amended by section *twelve* of Ordinance No. 10 of 1937.

|| As amended by section *thirteen* of Ordinance No. 10 of 1937.

by section six of Ordinance No. 1 of 1943 deemed to be in operation from the 1st July 1941 and providing in sub-section (3) thereof as follows:

(3) In respect of any member who was re-employed prior to the first day of July, 1941, section *twenty-five* of the principal ordinance shall be applied as if the amendment effected by sub-sections (1) and (2) of this section had not been made.

**Dismissal from the Service:**

\*26. If a member is dismissed from the service of a local authority as a result of grave misconduct, dishonesty or fraud, or if he is allowed to retire or resign in order to avoid dismissal, he shall receive a refund of his contributions and he shall cease to be a member of the fund, provided that if his conduct shall have involved the local authority in financial loss, the amount of such loss shall be deducted from such refund and be paid over to the local authority as a preferential charge.

**Death Before or Soon After Retirement.**

†27. (1) If a member dies while still in the service of a local authority his dependents, if any, shall receive a gratuity equal to eight and one-third per cent. of his annual average pensionable emoluments calculated over the ten years of continuous service preceding death (or over the whole period of his continuous service, if shorter) in respect of each year of continuous service, provided that the amount of such gratuity shall not be less than that which would have been payable if such deceased member had retired voluntarily.

(2) If a member who is in receipt of an annuity dies within five years from the date of his retirement, his dependents (if any) shall be paid a gratuity equal to the sum of the annuity payments during the unexpired portion of the period of five years aforesaid; provided that the committee may in its discretion pay such gratuity in instalments either without interest or, in the case of instalments extending over a long period, with interest at such rate as may be determined by the committee.

(3) If no claim is made by a dependent within a period of six months after the death of a member it shall be assumed that no dependent exists, and the amount of the deceased member's contributions, less the amount (if any) which he may have received in respect of retiring benefit, shall thereupon be paid to his estate and there shall thereafter be no claim on the fund in respect of such deceased member.

**Actuarial Valuation of Fund.**

28. (1) Once at least in every five years the condition of the fund shall be submitted by the committee to an actuary, who shall make an actuarial valuation of the assets and liabilities of the fund. The actuary shall report direct to the committee (which shall immediately on receipt thereof submit a copy of the report to the Administrator) and shall in his report state the data and processes used in his investigation and valuation. He shall declare any surplus or deficiency which appears and shall state why, in his opinion, that surplus or deficiency (as the case may be) has arisen, and as to the steps which should be taken to deal with it.

(2) When on any such valuation the actuary certifies that there is a substantial deficiency or a disposable surplus the committee shall submit to the Administrator a scheme which shall be approved by the actuary for the disposal of the surplus or for making good the deficiency. The benefits may be increased or the rates of contribution may be decreased or increased as the position may require, provided that in any scheme the rates of contribution from the local authority shall never be lower than the rates applicable to members.

(3) Where any such scheme is approved by the Administrator the committee shall forthwith give effect thereto.

(4) If within six months of the receipt of such report the committee fails to submit a scheme under this section, or to submit a scheme of which the Administrator approves, the Administrator shall formulate a scheme, which shall have the same effect as a scheme submitted by the committee and approved by him.

(5) No scheme under this section may provide that a person to whom a pension has been granted shall in the case of an annuity have it reduced, or in the case of a gratuity be called upon to repay any portion thereof.

**Pensions, etc., not assignable or Executable.**

29. No pension or right to a pension shall be capable of being assigned or transferred, or otherwise ceded, or of being pledged or hypothecated, nor shall the same or any contributions made by a member or on his behalf be

\* As amended by section *fourteen* of Ordinance No. 10 of 1937.

† As substituted by section *fifteen* of Ordinance No. 10 of 1937 and amended by section *seven* of Ordinance No. 1 of 1943.

liable to be attached or subjected to any form of execution under a judgment or order of a court of law, and in the event of the beneficiary attempting to assign, transfer, or otherwise cede, or to pledge or hypothecate a pension or right to a pension, payment of the same may be withheld, suspended, or entirely discontinued if the committee so determine; provided that the committee may direct the payment of such pension or part thereof to any one or more dependents of the beneficiary or to a trustee for such dependent or dependents during such period as it may think fit.

#### **How Annuities Affected by Insolvency.**

30. (1) If the estate of any person in receipt of an annuity is sequestrated or surrendered or assigned for the benefit of his creditors, the annuity shall forthwith determine; provided that, in any such case, all or any part of the annuity may be paid to or for the benefit of his dependents. If the payment is to such person, it shall be for his own personal use and may not in any way be taken, attached, sold, or appropriated by the trustee in insolvency or by any assignee or by his creditors, anything to the contrary notwithstanding in any law relating to insolvency.

(2) Whenever an annuity has determined under this section it shall be revived on rehabilitation of the insolvent, and he shall receive an annuity at the same rate and under the same conditions as before sequestration, surrender, or assignment, together with any arrears that may have accrued.

#### **How Annuities Affected by Conviction for Crime.**

31. (1) If a person in receipt of an annuity is convicted before any court of any crime or offence, and is sentenced therefor to death or to any term of imprisonment exceeding twelve months without the option of a fine, the annuity shall cease to be paid to such person, and in place thereof the annuity shall during such person's imprisonment be paid to his dependents.

(2) Whenever the payment of any annuity has ceased under sub-section (1) of this section it shall be revived on the discharge of the annuitant from prison, and he shall receive the annuity at the same rate and under the same conditions as before his imprisonment, together with any arrears that may have accrued and not been paid over under the authority in sub-section (1) hereof contained.

#### **Claims for Injuries Arising Out Employment.**

32. Repealed by section *sixteen* of Ordinance No. 10 of 1937.

#### **Local Authority to have Lien on Benefits for Monies Due.**

33. A local authority shall, in respect of any money debt due by a member to such local authority, have a lien on any annuity, gratuity, or other benefit payable to or in respect of such member under the provisions of this chapter.

#### **Local Authority May Make Special Grants.**

34. Nothing in this chapter contained shall be taken to prevent a local authority from making to any member who was in the service of such local authority at the fixed date, or to his dependents, in respect of the service of such member with such local authority or with another local authority or otherwise, any special payment or annual or other allowance in addition to any annuity or benefit which such member or his dependents may be entitled to receive from the fund, provided that such special payment or allowance shall be paid by such local authority out of its own revenue.

#### **How Reduction in Pension Emoluments or hours of Duty to be Treated.**

35. (1) Any contributing member whose pensionable emoluments may be reduced for any reason other than misconduct, or any contributing member who transfers from the service of a local authority with lower pensionable emoluments to the service of another local authority of whose fund he becomes a member (provided he did not leave the service of the former local authority on account of misconduct) shall be allowed at his option to continue or to make his contributions on the basis of his higher pensionable emoluments, and should this option be exercised, any benefit payable under this chapter in respect of such member shall be calculated as if such higher pensionable emoluments had continued to be payable.

(2) When the ordinary working hours of duty of a section of members have been reduced as a measure of economy, such members shall contribute on the emoluments on which they were contributing immediately prior to the reduction and for all purposes of the fund the emoluments on which a member contributes shall be regarded as his pensionable emoluments.

#### **Expenses of Management—How Borne.**

36. (1) The whole of the expenses in connection with or incidental to the management or administration of the fund as well as the cost of the audit and the actuarial investigations, shall be borne by the fund; provided that

in the case of the joint fund the travelling expenses necessary for the administration of the fund shall be borne in equal shares by the local authorities associated therewith.

(2) Notwithstanding the provisions of the preceding sub-section, if it should be provided in a scheme for the adoption of this Ordinance that members of an existing superannuation fund at the date of adoption shall have the right of electing not to come under the provisions of this chapter, and if the local authority was required by the rules of such superannuation fund to pay the expenses of administration, the local authority shall continue to pay such expenses in respect of such members electing not to come under the provisions of this chapter. The amount payable by the local authority to the fund in respect of any financial year shall be such proportion of the total expenses for such year as the contributions paid in such year by such local authority in respect of the current service of members not coming under the provisions of this chapter bear to the total contributions paid in such year by such local authority in respect of the current service of members.

#### Evidence of Age to be Produced.

37. Evidence of age satisfactory to the committee shall be produced by each member within six calendar months from the date of commencement of contributions to the fund.

#### Investment of Funds and Guarantee of Interest.

\*38. (1) The investment of all moneys not required to meet the current charges upon the fund shall be in the discretion of the committee, which is empowered to invest in any of the following ways:—

(a) in the Post Office Savings Bank, or in the savings bank of any bank or institution which is governed by the banking laws of the Union, or on fixed deposit or at call with any such bank or institution or with any local authority in the Union;

(b) in Treasury Bills, Union Loan Certificates, or Savings Bank Certificates issued by or on behalf of the Union Government, or in stocks, securities, or funds issued or guaranteed by the Union Government;

(c) in the stock, funds, or debentures of, or in loans to, any Provincial Administration, local authority, or public body in the Union authorized by law to borrow money;

(d) on the first mortgage upon first-class rent-producing property in the Transvaal, the amount of the mortgage in any case not to exceed two-thirds of the market value of the property as shown by a sworn appraisal; and in connection with any such mortgage the committee shall have power and authority when and as it may think fit, to buy in any mortgaged property and to hold or sell the same, and to do and perform all acts in any deeds registry or any competent court of law that the committee in its discretion may deem desirable or necessary for registering transfer of any property purchased as aforesaid, for cancellation of any bonds or interest in insurance policies or for transferring any property to the purchaser thereof or for leasing any property bought in as aforesaid.

(e) in such other security or securities as may be approved individually or as a class by the Administrator;

(f) subject to the approval of the Administrator being first obtained, in Government securities of the United Kingdom or of any dominion or colony of the United Kingdom.

(2) This section shall not apply to any funds invested at the date of adoption of this Ordinance until such funds become available for re-investment.

(3) If the rate of interest earned on the total moneys (including any uninvested moneys) of the fund during any financial year should be lower than four and one-half per cent. the local authority shall contribute to the fund such a sum as, on being added to the interest actually earned, would increase the rate to four per cent. during such financial year.

For this purpose, the rate of interest during a financial year shall be calculated by dividing the interest earned during such year by an amount which shall be equal to the mean of the fund at the beginning and at the end of such year less one-half of such interest.

†(4) Subject to the approval of the Administrator under the hand of the Provincial Secretary or a member of the Public Service delegated for this purpose the committee may obtain bank overdraft facilities for the purposes of this Ordinance.

#### Commutation of Annuities.

39. Repealed by section *eighteen* of Ordinance No. 10 of 1937.

#### When Breaks in Service may be Condoned.

40. (1) In respect of employees in the service of a local authority not having

\* Amended, with effect from 1st July, 1941, by section *eight* of Ordinance No. 1 of 1943.

† As amended by section *seventeen* of Ordinance No. 10 of 1937.

nor associated with a superannuation fund at the date of adoption of this Ordinance, the committee may, in deciding what part of the service prior to such date may be included for pension purposes and subject to sub-section (2) of this section disregard breaks in service not exceeding twelve months, but such breaks shall be treated as leave without pay and shall be excluded in calculating the period of continuous service.

(2) Any break in service prior to the date of adoption of this Ordinance due to a member being on active military service shall on the facts being established to the satisfaction of the committee, be entirely disregarded, and the period of such service shall be included in the period of continuous service. The pensionable emoluments of the member immediately prior to his participation in such military service shall be treated as his pensionable emoluments during the period of such military service.

#### **Committee.**

41. (1) The management and direction of the fund shall be vested in a committee of management which shall be composed of equal numbers of members nominated by the local authority and of members elected by members of the fund.

(2) The scheme for the adoption of this Ordinance shall, *inter alia*, include particulars with regard to the committee as follows:—

- (a) The number of members;
- (b) the method of appointment of a chairman;
- (c) the mode and times of nominating or electing members;
- (d) the quorum necessary for the transaction of business;
- (e) the method of appointment of a sub-committee or otherwise if thought necessary or desirable.

#### **Powers of Committee.**

\*42. (1) The committee shall, subject to the provisions of this Ordinance, have power to examine, approve, confirm or reject all applications for admission to membership of the fund, provided however, that any person whose application has been rejected shall have the right to appeal to the Administrator whose decision shall be final; to settle all questions not otherwise herein provided for in respect of contributions; to examine, approve, or decide upon the periods of service on which the contributions may be made or which may be included for pension purposes; to adjust and decide upon all claims made upon the fund; to authorize the payment of claims made upon the fund; to authorize the payment of all pensions, benefits, or refunds, and to carry out and perform the several duties in terms of and as prescribed in this chapter.

(2) When an annuity or other benefit becomes payable to dependents, the committee shall determine the persons who shall be regarded as dependents. If the committee should determine that there is more than one dependent, the committee shall further determine whether the whole amount of the benefit shall be paid to one dependent, or shall determine the proportions in which the benefit shall be paid to all or any of the different dependents.

#### **Committee Allowed to Make Rules.**

43. (1) The committee may from time to time (subject to the approval of the Administrator) make rules for its own guidance, or to facilitate the transaction of the business of the fund, provided such rules do not conflict with this Ordinance or militate against the spirit or objects of the fund.

(2) The committee may adopt from time to time suitable rules in the case of piece-work or other workers for the calculation of the annual pensionable emoluments, and such rules shall provide that the monthly pensionable emoluments on which contributions shall be paid shall be one-twelfth of such annual pensionable emoluments.

#### **Annual Audit.**

†44. The committee shall cause the books and accounts of the fund to be audited at least once in every year by the person appointed as auditor of the accounts of the local authority.

#### **Amendment of Rules or Scheme.**

45. Any rules or regulations of the fund or of the scheme for the adoption of this Ordinance may from time to time be altered or amended by the committee subject to the approval of—

- (a) the local authority;
- (b) the majority of the members of the fund; and
- (c) the Administrator;

provided that any alteration deemed likely to affect the financial position shall also be approved by an actuary.

\* As amended by section *nineteen* of Ordinance No. 10 of 1937.

† As amended by section *twenty* of Ordinance No. 10 of 1937.

## CHAPTER III.—ADDITIONAL PROVISIONS APPLICABLE TO JOINT FUND.

**Application of Chapter II to Joint Fund.**

\*46. The provisions of Chapter II shall *mutatis mutandis* apply to the joint fund, subject to the following amendments:—

(a) In section *nine* "committee" shall include the general committee and the committee of management mentioned in paragraph (g) of this section;

(b) "continuous service" as defined in section *nine* shall in respect of service with a local authority on or after the date of adoption of this Ordinance be amended by the addition of the following sub-paragraph to proviso (a) of such definition—

(iv) a break in service whilst transferring from one local authority associated with the joint fund to another local authority so associated, if regarded as leave without pay and condoned by the committee;

(c) section *twenty-five* shall apply in respect of a member who leaves the service of a local authority associated with the joint fund, and who is employed within a period of twelve months by another local authority so associated; provided that the other provisions of the said section shall also apply;

(d) the provisions of sub-section (2) of section *twenty-eight* shall apply with the following addition thereto:—

"If a surplus or deficiency should arise under the joint fund from any cause other than changes in the mortality or estimated future mortality of members or actuarial calculations for alteration or revisions due to salary or wage conditions, or actuarial calculations for ill-health pensions, the rates of contribution payable by the local authority shall not be altered, and instead the benefits shall be increased or the rates of contribution payable by members shall be increased or decreased as the position may require";

(e) any amount payable by the local authority under the provisions of sub-section (2) of section *thirty-six* shall be contributed by the local authorities associated with the joint fund in proportion to the contributions paid by each such local authority in respect of the current service of members not coming under the provisions of Chapter II during the financial year in respect of which the amount is payable;

(f) any contribution payable by the local authority under the provisions of sub-section (3) of section *thirty-eight* shall be contributed by the local authorities associated with the joint fund in proportion to the contributions paid by each such local authority in respect of the current service of members during the financial year in respect of which the contribution is payable;

(g) sub-section (1) of section *forty-one* shall not apply to the joint fund, and the following sub-section shall be substituted therefor: "The management and direction of the joint fund shall be vested in a general committee, and such general committee shall elect a smaller committee of management which shall have all the powers previously vested in the general committee, and such committee of management shall have power to appoint an executive or other sub-committee with such delegated authorities as may be deemed necessary;

Each committee shall be composed of equal numbers of members nominated by the local authorities and of members elected by members of the joint fund";

(h) the scheme referred to in sub-section (2) of section *forty-one* shall provide for the number of members of each committee specified in the preceding paragraph and for the manner and times of election or appointment of each such committee;

(i) Section *forty-four* shall not apply to the joint fund, and the following section shall be substituted therefor:

The committee shall cause the books and accounts of the joint fund to be balanced as at the end of each year ending the thirtieth day of June, and statements of income and expenditure, together with a balance-sheet, prepared for audit. The Administrator shall appoint one or more auditors, being members of the public service, who shall have the power of surcharge, and who shall report to the committee and to the Administrator on the result of the audit. In the event of any surcharge of revenue or expenditure being raised the committee shall have the right of appeal to the Administrator, who may in his discretion grant relief. The audit fee shall be such sum as the Administrator may from time to time determine in consultation with the committee, and shall become due and payable within three months of notification thereof. The Administrator may frame regulations for regulating the finances of the joint fund".

(k) In section *forty-five* the words "the local authority" shall be replaced by the words "the majority of the local authorities constituting the joint fund.

\* As amended by section *twenty-one* of Ordinance No. 10 of 1937.



## CHAPTER IV.—MISCELLANEOUS PROVISIONS.

**Application of Chapter.**

47. The provisions of this chapter shall apply to every superannuation fund or local authority that has adopted or may adopt this Ordinance and to such other as may adopt this Chapter as an addition to the constitution of its superannuation fund.

**Transfer of Employee from one Local Authority to Another Local Authority.**

48. (1) If an employee who is subject to the provisions of Chapter II transfers from the service of a local authority which has adopted this Ordinance to the service of another local authority which has adopted this Ordinance within six months of leaving the service of the first local authority, the fund of the first local authority shall pay to the fund of the second local authority a transfer value to be ascertained in accordance with rules made for the purpose by the Administrator [herein after in sub-sections (1), (2), and (3) of this section referred to as a "transfer value"], and the employee shall be entitled to such rights in respect of service before the date of transfer as he would have been entitled to if such service had been with the second local authority only.

(2) An employee who transfers from the service of a local authority which has no superannuation fund to the service of a second local authority which has adopted this Ordinance, within six months of leaving the service of the first local authority, shall, if he pays in lieu of the said transfer value a sum or sums to be ascertained in accordance with rules to be made by the Administrator, be entitled to reckon service with the first local authority in whole or in part in accordance with the amount of the sum so paid and in accordance with such rules.

(3) If an employee who is subject to the provisions of Chapter II transfers from the service of a local authority which has adopted this Ordinance to the service of a second local authority which has not adopted this Ordinance, but which has a superannuation fund, within six months of leaving the service of the first local authority, the fund of the first local authority shall pay to the superannuation fund of the second local authority a transfer value, and in that case the employee shall be entitled to such rights in respect of service before the date of transfer as he would have been entitled to if such service had been with the second local authority; provided that any difference between such transfer value and the amount which the superannuation fund of the second local authority should have received in respect of the employee at the date of transfer as ascertained by an actuary, shall be paid to such superannuation fund by the employee, or from such superannuation fund to the employee, as the case may be; provided further that any such difference may at the discretion of the committee of such superannuation fund, be paid by instalments, together with interest at the rate of four and one-half per cent. per annum, compounding yearly.

(4) (a) In any case other than those detailed in the preceding sub-sections of this section where an employee transfers from the service of a local authority to the service of another local authority within six months of leaving the service of the first local authority, and where each such local authority has a superannuation fund, the following provisions shall apply:—

(i) in this paragraph the local authority and the superannuation fund from which the employee is transferring shall be called the first authority and the first fund respectively, and the local authority and the superannuation fund to which he is transferring shall be called the second authority and the second fund respectively.

(ii) The employee shall satisfy the conditions laid down for eligibility as a member in the second fund, except those providing for a maximum age or for evidence of health.

(iii) The employee shall, as from the date of transfer, contribute to the second fund at the rate applicable to his age at the commencement of his pensionable service with the first fund, or applicable to such later date as from which he elects his pensionable service to commence in the second fund.

(iv) The first fund shall pay to the second fund the amount it holds in respect of the employee at the date of transfer, called the first transfer value.

(v) The second fund shall receive the amount which it ought to hold in respect of the employee at the date of transfer, taking into consideration the pensionable service prior thereto, called the second transfer value.

(vi) If the first transfer value is greater than the second transfer value, the balance shall be paid by the second fund to the employee, either in one sum or by instalments approved by the committee of management of the second fund, provided that if payment be made in instalments, interest shall be added thereto at the rate of four and one-half per cent. per annum compounding yearly, from the date of transfer.

\*(vii) Subject to the provisions of the next succeeding sub-paragraph if the

\* As amended by section twenty-two of Ordinance No. 10 of 1937.

first transfer value is less than the second transfer value, the balance shall be paid to the second fund by the employee, either in one sum or by instalments approved by the committee of management of the second fund, provided that if payment be made by instalments, interest shall be added thereto at the rate of four and one-half per cent. per annum, compounding yearly from the date of transfer.

(viii) If the first transfer value should be less than the second transfer value, when the pensionable service in the second fund is the same as that in the first fund the employee shall have the right of reducing the pensionable service in the second fund so that the balance of transfer value payable by him shall be reduced or extinguished, but to no greater extent.

(ix) The transfer values referred to in this paragraph shall be ascertained by an actuary.

(b) The provisions of sub-paragraph (viii) of the preceding paragraph shall be applied where applicable to cases arising under the preceding sub-section.

(c) Paragraph (a) of this sub-section shall apply in any case where one of the local authorities concerned is situated in the Union outside of the Transvaal, provided that such local authority or its superannuation fund has adopted similar reciprocal provisions.

(5) If a gratuity should have been paid under sections *twenty-two*, *twenty-three* or *twenty-four*, and the employee should afterwards join the service of another local authority, within six months of leaving the service of the first local authority, one of the preceding sub-sections, should it be applicable, shall be applied provided that the employee shall pay to the fund of the local authority he has joined, in one sum or by instalments as the committee of management may determine, the amount of the gratuity he had received, together with interest thereon at the rate of four and one-half per cent. per annum, compounding yearly, from the date on which he received such gratuity up to the date or dates of payment, and provided further that the sum to be paid by the fund of the first local authority to the fund of the local authority he has joined shall be reduced by the amount of the said gratuity together with interest at the rate of four and one-half per cent. per annum, compounding yearly, from the date the gratuity was paid up to the date of joining the service of the second local authority.

*Section twenty-four and twenty-five of Ordinance No. 10 of 1937, as amended by section nine, of Ordinance No. 1 of 1943 provide:—*

**Option to Old Members to be Subject to sub-section (2) of section eighteen.**

24. Notwithstanding the provisions of the principal Ordinance, with the exception of paragraph (a) of section *four* thereof, an old member shall have the option of electing in writing, within six months from the commencement of this Ordinance or within such further period as the committee may in special circumstances allow, to receive on retirement the retiring benefit specified in sub-section (2) of section *eighteen* of the principal Ordinance, as amended by this Ordinance, instead of the retiring benefit provided in sub-section (1) of such section.

**Local Authority with Less than Ten Employees may Establish Provident Fund.**

25. Notwithstanding the provisions of the principal Ordinance or this Ordinance, a local authority which has in its service less than ten employees (as defined in section *nine* of the principal Ordinance) may in its discretion, establish a provident fund for the benefit of such employees, subject to the following provisions:—

(a) No such provident fund shall be established unless—

(i) such local authority shall have prepared a scheme which shall provide *inter alia* for the date from which the scheme shall come into operation;

(ii) the local authority shall have adopted the scheme by a resolution passed by a majority consisting of not less than two-thirds of the members of the local authority present and voting at a meeting called for the purpose of which a month's previous notice shall have been given to each of its members;

(iii) the scheme shall have been confirmed by the local authority at an ordinary meeting held not less than one month after the passing of such resolution;

(iv) the Administrator shall have approved such scheme.

(a) *bis*. The contributions payable from time to time by such employees shall be calculated according to the same scales and pensionable emoluments as if such employees had been members of the joint fund, and the local authority shall pay pound for pound on all contributions payable by such employees;

(b) No contributions shall be payable by the local authority or employees in respect of any period of service of employees with the local authority prior to the date as from which the fund is established.

(c) Section *thirty-four* of the principal Ordinance shall *mutatis mutandis* apply in respect of such local authority and employees.

(d) The provisions of Chapter IV of the principal Ordinance, as amended by this Ordinance, shall *mutatis mutandis* apply to such provident fund, and for this purpose, but not otherwise, "superannuation fund" shall be deemed to include such provident fund.

(e) Whenever the local authority has in its service ten or more such employees, it shall become associated with the joint fund, subject to the following conditions:—

(i) The provident fund shall be liquidated, and its assets shall be transferred to the joint fund;

(ii) the employees shall cease to have any right or interest in the provident fund, and shall instead become members of the joint fund, and shall be credited therein with continuous service for the periods for which they contributed to the provident fund;

(iii) the local authority shall pay to the joint fund any initial contribution which the actuary considers is required by the joint fund, in addition to the amount specified in sub-paragraph (i), to undertake the liability specified in sub-paragraph (ii); provided that the local authority may, in its discretion, pay a higher initial contribution in order to include as continuous service periods of service of employees prior to the dates on which they commenced to contribute to the provident fund; provided further that sub-section (2) of section *twelve* of the principal Ordinance, as amended by this Ordinance, shall apply to such initial contribution.

(e) *bis*. A local authority which has in its service less than ten such employees may become associated with the joint fund after having obtained the consent of—

(i) the committee of management (if any) of such provident fund;

(ii) a majority of the members contributing to such provident fund obtained in writing in such a manner as such committee of management or, failing a committee of management, such local authority may determine; and

(iii) the Administrator;

and upon such consent being obtained the conditions specified in paragraph (e) of this section shall apply as if such local authority has in its service ten or more such employees.

(f) The provident fund shall be established and administered in accordance with regulations, not inconsistent with this section, to be made by the Administrator, and such regulations may deal with all matters appertaining to the provident fund or to its transfer under this section to the joint fund.

#### **Interchange of Employee Between Local Authorities.**

49. An employee who is interchanged between local authorities, for a period not exceeding one year, shall continue to make contributions to the superannuation fund of the local authority from which he is interchanged, and such local authority shall continue to make contributions to such superannuation fund; the contributions so continued shall be calculated upon the pensionable emoluments drawn by the employee immediately prior to the date when he was interchanged.

#### **Employee Seconded to Another Local Authority.**

50. An employee who is seconded for a period not exceeding two years to the service of another local authority shall continue, while so seconded, to make contributions to the superannuation fund of the local authority from which he is seconded, and the contributions payable by the local authority from which he is seconded shall be paid by the local authority to which he is seconded; such contributions shall be calculated upon the pensionable emoluments drawn by the employee immediately prior to the date when he was seconded.

#### **Property of Fund may be Held and Fund may Sue or be Sued in its Own Name.**

51. (1) For the purposes of this Ordinance every superannuation fund shall be deemed to be a corporation, and as such all property belonging thereto shall vest in the superannuation fund under its own name. By "its own name" shall be meant the name by which the superannuation fund is known in its constitution or in the scheme prepared for the adoption of this Ordinance or in the proclamation of the Administrator approving of the constitution of the superannuation fund.

(2) The members of the committee of management of a superannuation fund, or failing a committee of management the members of the local authority, shall not be liable to make good any deficiency in the funds of the superannuation fund but shall be liable only for sums of money actually received by them on behalf of the superannuation fund.

(3) All legal proceedings of a civil nature by or against a superannuation fund shall be instituted or taken by or against the superannuation fund under its corporate name as referred to in sub-section (1) of this section, and no such legal proceedings shall be brought against a member of a superannuation fund individually in respect of an obligation of the superannuation fund by reason only that he is a member.

\* (4) No legal proceedings of any nature whatsoever shall be brought against the fund, the committee, or any local authority in respect of anything done or omitted under this Ordinance or any amendment thereof unless the proceedings are brought before the expiry of twelve months after the act or omission alleged.

## CHAPTER V.

**Repeal of Law.**

52. Sub-section (33) of section *seventy-nine* of the Local Government Ordinance, 1926, is hereby repealed, except as to existing superannuation funds of local authorities that have not adopted this Ordinance.

**Short Title and Date of Operation.**

53. This Ordinance may be cited for all purposes as the Local Government Superannuation Ordinance, 1930, and shall commence and come into operation on a date fixed by Proclamation of the Administrator.

**No. 17 of 1930.—Transvaal Teachers' Pensions Amendment.—Principal Ordinance No. 5 of 1916.**

*Section 1.—Adds new provisions enabling female officers to retire at £0. Embodied in the revised print after sections 22 of Ordinance No. 17 of 1927 and 1 of Ordinance No. 9 of 1924 following on section 9 of the Principal Ordinance.*

*Section 2.—Amends section 3 of the Principal Ordinance.*

*Section 3.—Provides for the refund of teachers' contributions in certain circumstances. Incorporated in the revised print immediately before section 37 of the Principal Ordinance.*

*Section 4.—Short Title.*

**No. 18 of 1930.—Education Act Amendment.****No. 19 of 1930.—Public Hospitals Amendment.—Principal Ordinance No. 13 of 1928.**

*Section 1.—Amends section 2 of the Principal Ordinance.*

*Section 2.—Amends section 10 of the Principal Ordinance.*

*Section 3.—Substitutes a new section 18 in the Principal Ordinance.*

*Section 4.—Amends section 29 of the Principal Ordinance. Since substituted by section 7 of Ordinance No. 14 of 1943.*

*Section 5.—Amends section 46 of the Principal Ordinance.*

*Section 6.—Amends section 47 of the Principal Ordinance.*

*Section 7.—Amends section 82 of the Principal Ordinance.*

*Section 8.—Short Title.*

**No. 20 of 1930.—Personal and Income Taxes Amendment.—Principal Ordinance No. 10 of 1928.**

*Section 1.—Amends section 4 of the Principal Ordinance.*

*Section 2.—Amends section 7 of the Principal Ordinance.*

*Section 3.—Amends section 8 of the Principal Ordinance.*

*Section 4.—Amends section 14 of the Principal Ordinance.*

*Section 5.—Short Title.*

**No. 21 of 1930.—Horse Racing and Betting Amendment.—Principal Ordinance No. 9 of 1927.**

*Section 1.—Repeals sections 16 and 17 of the Principal Ordinance.*

*Section 2.—Amends section 20 of the Principal Ordinance.*

*Section 3.—Substitutes a new section 21 in the Principal Ordinance.*

*Section 4.—Amends section 23 of the Principal Ordinance.*

*Section 5.—Short Title.*

**No. 22 of 1930.—Appropriation (1930-1931).**

1931.

**No. 1 of 1931.—Unauthorized Expenditure (1928-1929).****No. 2 of 1931.—Appropriation (Part 1931-1932).****No. 3 of 1931.—Pounds Amendment.**

*Section 1.—Contains certain special provisions regarding the impoundment of donkeys. This section has now been embodied immediately after section 43 of the revised print of the Principal Ordinance, No. 7 of 1913*

*Section 2.—Amends section 28 of the Principal Ordinance.*

*Section 3.—Short Title.*

**No. 4 of 1931.—Hawkers and Pedlars Amendment.**

*Section 1.—Amends section 2 of Ordinance No. 4 of 1930.*

*Section 2.—Short Title.*

\* As amended by section *twenty-three* of Ordinance No. 10 of 1937.

No. 5 of 1931.]

[Assented tho 13th April, 1931.]

**A PRIVATE ORDINANCE****To enable Pretoria to be called a City and to alter the title of the Council of the Municipality of Pretoria.***(Date of operation 14th October, 1931.)**(English copy signed by Governor-General.)*

WHEREAS it is desirable in the interest of the community of Pretoria to declare the Town of Pretoria to be a City and to alter the name of the Council of the Municipality of Pretoria from the "Town Council of Pretoria" to that of the "City Council of Pretoria";

BE IT ENACTED by the Provincial Council of Transvaal as follows:—

**Title of City of Pretoria.**

1. The Town of Pretoria shall be and is hereby designated and known as the City of Pretoria.

**Title of City Council and Application of Ordinance No. 11 of 1926, etc.**

2. The title of the Council of the Municipality of Pretoria shall be and is hereby altered from the "Town Council of Pretoria" to the "City Council of Pretoria" and the provisions of the Local Government Ordinance No. 11 of 1926, and any amendment thereof, shall apply to the City Council of Pretoria, so that wherever the words "Town Council" or "Council" in the said Ordinance are used, they shall be deemed to mean and include the City Council of Pretoria and wherever in any law or by-law, reference is made to the Town Council of Pretoria, such reference shall be deemed to mean and include the City Council of Pretoria.

**Short Title and Date of Operation.**

3. This Ordinance may be cited for all purposes as the City of Pretoria Ordinance (Private) of 1931, and shall come into operation on such date as the Administrator may by proclamation of the *Provincial Gazette* declare.

**No. 6 of 1931.—Main Reef Road Amendment.—Repealed by Ordinance No. 12 of 1933.**

**No. 7 of 1931.—Companies Tax Amendment.—Repealed by Ordinance No. 12 of 1933.**

**No. 8 of 1931.—Warmbaths (Control and Management).—Repealed by Ordinance No. 10 of 1933.**

**No. 9 of 1931.—Removal of Dead Bodies Amendment.—Principal Ordinance No. 7 of 1923.**

*Section 1.—Amends the Long Title to the Principal Ordinance.*

*Section 2.—Amends section 2 of the Principal Ordinance.*

*Section 3.—Adds, after section 2 of the Principal Ordinance a new section 3 prohibiting the interference with burial places situated outside municipal areas.*

*Section 4.—Amends the Short Title of the Principal Ordinance.*

*Section 5.—Short Title.*

**No. 10 of 1931.—Roads Amendment.—Repealed by Ordinance No. 9 of 1933.**

No. 11 of 1931.]

[Assented to 3rd June, 1931.]

**AN ORDINANCE****To Amend the Laws relating to the Establishment of Townships and Extensions of Existing Townships, and to Provide for Town-planning and All Matters incidental thereto.***(Date of operation 1st April, 1932.)**(English copy signed by Governor-General.)*

BE IT ENACTED by the Provincial Council of Transvaal as follows:—

**CHAPTER I.—DEFINITIONS.****Definitions.**

1. In this Ordinance, unless some other meaning is clearly intended—

"Administrator" means the officer appointed under sub-section (1) of section *sixty-eight* of the South Africa Act, 1909, and any amendment thereof acting on the authority of the Executive Committee of the Province;

"approved township" means a township the establishment of which has been approved by the Administrator and proclaimed as such under this Ordinance;

"Board" means the Townships Board constituted under section *two*;

“commencement of this Ordinance” means the date on which this Ordinance came into operation;

“erf” means every piece of land in a township registered in the Deeds Registry as an erf, stand, lot, or plot, and shall include any piece of land other than a public place shown on a general plan of a township or proposed township;

“establish” or “establishment” in relation to a township includes extend or extension of that township;

“Gazette” means the *Official Gazette of the Province of Transvaal*;

“local authority” means a city council, town council, village council, or health committee constituted and, in the case of a health committee, declared as a corporate body under the provisions of the Local Government Ordinance, 1926, or any amendment thereof;

“municipality” means the area placed under the control and jurisdiction of a local authority;

“owner” means—

(a) in the case of a township established under this Ordinance or in the case of a township for the establishment of which an application has been made, the person registered in any Deeds Registry as the owner of the land included or to be included in such township;

(b) in the case of a township existing at the commencement of this Ordinance, the registered owner of the land included in such township at the date when it was established as a township or his successor in township title;

“prescribed” means prescribed by this Ordinance or by regulation made thereunder;

“public place” means and includes the land comprising any street, park, recreation, or sports ground or open space shown on the general plan of a township;

“Registrar of Deeds” includes the Rand Townships Registrar;

“street” includes any street, road, bridge, subway, avenue, lane, sanitary lane, or thoroughfare shown on the general plan of a township;

“township” means—

(a) a township legally established or registered as such prior to the commencement of this Ordinance;

(b) an approved township;

(c) any extension of such townships;

(d) any area of land registered as one or more pieces of land either contiguous or in close proximity to each other which is being or is intended to be laid out or divided into sites for residential, business, industrial, building, occupational or similar purposes or for urban settlement arranged in such a manner so as to be intersected or connected by or to abut on streets, thoroughfares, rights-of-way, squares or open spaces;

† “Urban settlement” means any area of land situate outside a municipality which is being or is intended to be or has been arranged, laid out, divided, surveyed, sold, transferred, leased or occupied for residential, business, industrial, building, occupational or similar purposes in such a manner as to be destined for urban settlement, provided that the Administrator has by Proclamation in the *Gazette* in terms of section two (1) of the Townships and Town-planning Amendment Ordinance, 1934, declared such area to be an urban settlement.

## CHAPTER II.—TOWNSHIPS BOARD.

### Constitution of Townships Board.

12. (1) A Board shall be constituted to be styled the “Townships Board,” which shall consist of—

(a) the Surveyor-General or other officer lawfully acting for him in his absence (who shall be chairman), the Registrar of Deeds, and the Registrar of Mining Titles as *ex officio* members;

(b) an officer of the Provincial Administration appointed by the Administrator, and

(c) not more than five other persons who shall be selected and appointed by the Administrator on the ground of possessing qualifications necessary for or serviceable in connection with town-planning provided that the Administrator may appoint an alternate to any member to act as a member of the board in the absence of such member.

(2) No member of the Board shall be present during the consideration of any matter in which such member is either directly or indirectly financially interested.

(3) Any member appointed by the Administrator under sub-section (1) (b)

\* As amended by section one of Ordinance No. 11 of 1933.

† As added by section one of Ordinance No. 12 of 1934.

‡ As amended by section two of Ordinance No. 11 of 1933.

and (c) (hereinafter referred to as an appointed member) shall, subject to the provisions of sub-sections (4) and (5), hold office for a period of three years.

(4) An appointed member shall vacate his seat on the Board if he—

(a) becomes insolvent or assigns his estate for the benefit of his creditors;  
(b) becomes of unsound mind or is convicted of an offence and sentenced to imprisonment without the option of a fine;

(c) absents himself from four consecutive meetings of the Board, without the leave of the Board, which leave shall not be granted for a period of more than six months in any one year;

(d) resigns his office by writing addressed to the Administrator;

(e) being an officer of the Provincial Administration ceases to be such an officer; or

(f) is removed from office by the Administrator for neglect of duty or misconduct or for any good or sufficient reason.

(5) Subject to the provisions of sub-section (1) (b) and (c), the Administrator may appoint a person to fill any casual vacancy in the membership of the Board, and the person so appointed shall hold office only for the unexpired term of office of his predecessor.

(6) An appointed member shall be eligible for reappointment.

(7) The powers of the Board shall not be affected by any vacancy in the membership thereof.

#### **Payment of Fees and Allowances to Certain Members of the Board.**

3. (1) The Administrator shall determine the fees (if any) and the travelling or other allowances which shall be paid to the members and staff of the Board who are not officers of the Public Service.

(2) All such amounts shall be paid out of moneys to be appropriated by the Provincial Council for the purpose.

#### **Meetings of Board.**

4. The first meeting of the Board shall be held at such time and place as the Administrator shall appoint, and thereafter meetings of the Board shall be held at such times and places as the Board may from time to time determine; provided that the Board shall meet at least once a month if there be pending for consideration by it any application under this Ordinance, provided further that the Chairman may at any time call a special meeting in case of necessity and shall at the request of at least three members of the Board call such special meeting.

#### **Acting Chairman and Voting.**

5. (1) In the event of the absence of the chairman from any meeting of the Board, the members present shall elect one of its number to be the chairman for the purposes of that meeting.

(2) A decision of the majority of the members present at any meeting of the Board shall be a decision of the Board. In the event of an equality of votes on any subject, the chairman shall have a casting vote in addition to his deliberative vote.

#### **Quorum.**

\*6. At all meetings of the board the following shall constitute a quorum:—

(a) Two members of whom one shall be the chairman whenever the membership of the board does not exceed four members;

(b) three members whenever the membership of the board is five members;

(c) four members whenever the membership of the board exceeds five members.

#### **Procedure.**

7. Save as is provided by this Ordinance, the Board may regulate its own procedure.

#### **Duties of the Board.**

8. (1) In addition to performing such duties as are prescribed, the Board shall report on such other matters arising out of or incidental to the administration of this Ordinance or the regulations thereunder as may be referred to it by the Administrator.

(2) The Board shall have all the powers, jurisdiction, and privileges prescribed by the Commissions Powers Ordinance, 1902.

#### **Committees.**

†8*bis*. (1) The Board may from time to time appoint from its members one or more committees for any purpose which the Board may deem fit.

(2) The Board may delegate to any such committee with or without such restrictions or conditions as it may think fit such of its powers and duties under this Ordinance or the regulations made under this Ordinance as it

\* As substituted by section one of Ordinance No. 6 of 1933.

† Added by section one of Ordinance No. 10 of 1943.

may from time to time determine and may cancel any such delegation provided that—

- (a) each committee shall report its proceedings to the Board; and  
 (b) the acts and proceedings of each committee shall require the subsequent approval of the Board.  
 (3) (a) Every such committee shall consist of so many members as the Board may determine. The Board shall fix the quorum of every such committee.  
 (b) each committee shall elect its own chairman. If the chairman of the committee is absent from any meeting of the committee the members present shall elect one of their number to act as chairman at that meeting and the person so elected shall during the absence from that meeting of the chairman, exercise all the functions of the chairman.  
 (c) Every committee appointed by the Board may be dissolved by the Board, provided that notice of the intention to move that a committee be dissolved shall be given at a meeting of the Board at least fourteen days prior to the meeting at which the motion will be dealt with.  
 (4) Sub-sections (1), (2) and (3) shall be deemed to have come into operation on the first day of April, 1939.

#### **Board Successor of Townships Board under Act No. 33 of 1907.**

9. The Board as constituted under this Ordinance shall for all purposes be deemed to be the successor of the Townships Board constituted under section three of the Townships Act, 1907 (Transvaal).

#### **CHAPTER III.—TOWNSHIPS: ESTABLISHMENT OF.**

#### **Townships to be Established under this Ordinance or Act No. 34 of 1908.**

10. It shall not be lawful after the commencement of this Ordinance for any person to establish a township except in accordance with the provisions of this Ordinance or of the Townships Amendment Act, 1908 (Transvaal); provided that the provisions of section fifty-two of the said Act shall not apply to any application for the establishment of a township under this Ordinance.

#### **Procedure in regard to Establishment of Townships.**

11. (1) The owner of any land who proposes to establish a township thereon shall make application in writing for permission so to do to the Administrator in such form and accompanied by such numbers of plans, documents, and information as may be prescribed. Upon receipt thereof the Administrator shall forthwith refer the application to the Board.

(2) Upon and after making application, under sub-section (1) for the establishment of a township situate within a municipality, the owner shall not be required to comply with the provisions of any by-law in force within such municipality regulating the giving of notice and the deposit of plans in connection with the laying out of new townships.

(3) If the land upon which it is proposed to establish a township is subject to a mortgage bond, the owner shall advise the mortgagee in writing within seven days of the date of his application in terms of sub-section (1) that he has made such an application.

(4) After the requirements of sub-section (2) of section twelve have been complied with, and upon receipt of such application from the Administrator the Board shall publish once a week for three consecutive weeks in the *Gazette* and in a newspaper circulating in the district in which the proposed township is situated a notice stating that such an application has been made and is open together with the relative plans, documents, and information to inspection at the office of the Secretary of the Board for a period of two months from the date of the first publication thereof in the *Gazette*; and that any person who shall object to the grant of the application or who is desirous of being heard or of making representations in the matter shall communicate with the Secretary of the Board within a period of two months from the date of the first publication of such notice.

(5) The Board shall fix a day and time for an inspection of the site of the proposed township and shall inspect the said site or depute one or more of its members to make such inspection and to take evidence for or against the establishment of the township; provided that the day fixed hereunder shall be not less than one month from the date of the first publication in the *Gazette* of the notice referred to in sub-section (4).

(6) Any person who shall object to the granting of an application or who is desirous of being heard or of making representations in the matter may communicate in writing with the Board or may give evidence in person before the Board on the date and at the place of inspection or on such other date and at such place as the Board may appoint; provided that such written communication shall be in the hands of the Board not later than one month after the first publication in the *Gazette* of the notice referred to in sub-section (4). The Board shall thereupon notify such person of the date and place fixed for the inspection. Particulars of every objection shall be communicated by the Board



to the applicant.

(7) During the consideration of an application or objections thereto, the Board may require the applicant to furnish it with such further particulars, information, plans, and diagrams as it may deem fit.

(8) During the consideration of an application by the Board it shall be competent for the applicant with the consent of the Board to amend such application in respect of any matter or proposal therein contained, unless such amendment is in the opinion of the Board in substance so material as to constitute in all respects a new application for the establishment of a township.

(9) If any owner shall wilfully and with intent to defraud submit false or misleading information in connection with this application he shall be guilty of an offence and on conviction shall be liable to the penalties prescribed by law for the crime of fraud.

#### **Payment of Expenses of Board.**

12. (1) All expenses incurred by the Board in connection with an application in respect of the publication of notices, official visits of inspection, meetings of the board, fees and travelling or other allowances payable to the members and staff of the Board shall be borne by the applicant whether the application be granted or not.

(2) Before any action is taken by the Board in connection with an application the applicant shall deposit with the Provincial Secretary such sum as the Administrator shall consider sufficient to cover the expenses referred to in sub-section (1), and shall also give an undertaking to defray any such expenses in excess of the amount deposited.

#### **Board to Advise Local Authority of Application in Certain Circumstances.**

13. (1) If the land in respect of which an application has been made for the establishment of a township is situate within a municipality or is within a distance of five miles from the boundaries of any municipality the Board shall upon receipt of such application transmit a copy thereof to every local authority concerned.

(2) Any local authority concerned may within the period notified in terms of sub-section (4) of section *eleven* make representations in writing to the Board. Upon receipt of any such representations copies thereof shall forthwith be transmitted by the Board to the applicant who may within a period of fourteen days thereafter submit in writing counter representations to the Board.

#### **Consideration of Application.**

14. As soon as possible after the inspection referred to in sub-section (5) of section *eleven* the Board shall consider the application and shall recommend to the Administrator that—

(a) the application be granted subject to such conditions as it may deem advisable;

(b) the application be refused; or

(c) a decision on the application either in whole or in part be postponed.

#### **Board to Report on Certain Matters.**

15. (1) The Board shall in submitting its recommendation in terms of section *fourteen* furnish the Administrator with a report upon the following matters in so far as they are applicable—

(a) the need or desirability of establishing the township;

(b) the suitability of the site with regard to area, position, water supply, soil, aspect, contour, possibility of extension, grade of streets, climatic conditions, availability of building material, accessibility from railways and through roads and any other circumstances which may affect the proposal to establish a township thereon;

(c) the suitability or otherwise of the proposed design or lay-out having regard to the dimensions of erven, sewerage, drainage, probable traffic requirements both within the township and in relation to the surrounding district and also to aesthetic considerations and social amenities;

(d) the existence of servitudes or encumbrances which may affect the prosperity of the township;

(e) the conditions which should be imposed should the application be granted;

(f) the provisions and reservation of land for Government and municipal purposes including the reservation of land for town lands and for the use and benefit or in the general interest of the inhabitants of the township;

(g) the allocation of areas or zones within the township for residential, commercial, industrial or other purposes and the regulation of sales of erven within the township;

(h) the regulation of buildings with particular reference to the maximum number which may be built upon each erf, the maximum area of each erf which may be built upon, open spaces in and about buildings, the position

of buildings on each erf in relation to any street or other buildings and their character, height and harmony in design;

(i) the suitability of the name of the township;

(j) the endowment if any which shall be made to or in trust for the local authority present or prospective and the form which such endowment shall take; and

(k) any other matters material to the application which in the opinion of the Board it is desirable to bring to the notice of the Administrator.

(2) The Board shall forward to the Administrator together with its report any representations and counter representations received by it under the provisions of sub-section (2) of section *thirteen*.

#### **Administrator's Powers.**

16. Subject to the provisions of section twenty-seven of this Ordinance the Administrator may upon receipt of the recommendation and report of the Board grant or refuse an application or postpone a decision thereon either in whole or in part provided that if he grant the application he may make such modifications of the conditions recommended by the Board as he may think fit provided that the Administrator shall not modify the conditions recommended by the Board or grant any application the refusal of which has been recommended by the Board without further reference to the Board.

#### **Administrator May Alter Conditions.**

17. After the granting of any application and before promulgation of the proclamation referred to in sub-section (4) of section *twenty* the Administrator may, with the consent of the applicant and after reference to the Board, amend, alter or vary the conditions other than the condition required to be made in terms of sub-section (1) of section *twenty-seven* under which the application was granted or add further conditions.

#### **Administrator to Notify Granting of Application.**

18. Upon the granting of any application the Administrator shall notify the applicant, the Board, the Surveyor-General, the Registrar of Deeds, and if the land is within a municipality the local authority concerned, and shall state the conditions upon which such application has been granted whereupon the erven in the township in respect of which such application was granted shall be subject to all such special conditions of title as may have been imposed in respect of such erven.

#### **Applicant to Submit Plans and Diagrams to the Surveyor-General.**

\*19. The applicant shall within a period of six months from the date of such notification or within such further period as the Administrator may in each case determine lodge for approval with the Surveyor-General such plans and diagrams as may be necessary for the establishment of the township. When such plans and diagrams have been approved the Surveyor-General shall notify such approval to the applicant. Should, however, the applicant fail to lodge the necessary plans and diagrams with the Surveyor-General within the said period of six months or within such further period as the Administrator shall have determined the granting of the application shall be deemed to have lapsed, unless the Administrator condones such failure.

#### **Lodging of Plans and Title Deeds for endorsement of Registration.**

†20. (1) Within a period of three months from the date of the approval of the diagrams and plans or within such further period as the Administrator may determine the applicant shall lodge with the Registrar of Deeds, the said plans and diagrams together with the relative title-deeds for endorsement or registration as the case may be. Should, however, the applicant fail to lodge such plans, diagrams and title-deeds within the said period of three months or within such further period as the Administrator may have determined the grant of the application shall be deemed to have lapsed unless the Administrator condones such failure.

(2) Where the whole of the land held under such title-deeds is comprised in the township the Registrar of Deeds shall make upon each title-deed and on the duplicate originals thereof filed of record an endorsement indicating that the land has been laid out as a township.

(3) Where only a portion of the land held under such title-deeds is comprised in the township the applicant shall cause to be taken out in customary form a certificate of township title to the portion so comprised.

(4) Upon the endorsement or registration as provided in sub-sections (2) and (3) the Registrar of Deeds shall notify the Administrator of such endorsement or registration and thereupon the Administrator shall by Proclamation in the *Gazette* declare the township to be an approved township, and shall set forth

\* As amended by section *one* of Ordinance No. 20 of 1941.

† Amended by section *two* of Ordinance No. 20 of 1941.

in a schedule to such proclamation the conditions upon which the application for the establishment of the township is granted.

**Extension of Boundaries of Townships—Administrator may impose Conditions.**

\*20bis. Whenever the Administrator extends, by proclamation in the *Gazette*, the boundaries of an existing township in terms of section *forty-nine* of the Deeds Registries Act, 1937 (Act No. 47 of 1937), to include an area of land which constitutes by reason of its situation a portion of such township he may, after consultation with the Board, impose such conditions of establishment applicable to the owner or owners of such land and/or such conditions of title in respect of such land as he is entitled to impose under this Ordinance when granting an application for the establishment of a township; provided that the power hereby conferred upon the Administrator shall not be exercised unless the local authority (if any) within whose area of jurisdiction the said township is situated has been consulted. Any conditions imposed under this section shall be set forth in a schedule to the said proclamation.

**Conflict of By-laws.**

†21. Should any of the by-laws or regulation made at any time by or for a local authority be in conflict with the approved conditions governing the establishment of a township within its municipality such by-laws or regulations shall to that extent be of no force and effect.

**Copy of General Plan to be Supplied to Local Authority.**

22. Upon the promulgation of the proclamation referred to in sub-section (4) of section *twenty* the applicant shall if the township is situate within a municipality furnish the local authority with a certified copy or tracing of the approved general plan of the township.

**No Transfer Permissible until Township Notified as Approved Township.**

23. No registration of the transfer of any erf in a township established after the commencement of this Ordinance shall be effected in a deeds registry unless and until such township has been proclaimed as an approved township; provided that the Registrar of Deeds shall refuse to register the transfer of any erf in a township if he is satisfied or has been advised by the Administrator that any of the conditions imposed under the provisions of the Townships Act, 1907, or of this Ordinance or any amendment thereof have not been complied with in so far as such conditions are applicable as at the date when deeds for registration of such transfer are lodged.

**Transfer of Land to Government and Local Authority.**

‡24. (1) After the promulgation of the proclamation referred to in sub-section (4) of section *twenty* the applicant when so required by the Administrator shall at his own cost transfer to—

(a) the Government such land or erven as have been reserved for Government purposes;

(b) the local authority or the Governor-General in trust for any local authority which may thereafter be constituted for the township as the case may be such land or erven (not being public places) as have been reserved for town lands or for public or municipal purposes or for endowment purposes.

(2) No transfer of any other erf in the township shall be registered in a deeds registry until such land or erven have been transferred as provided for in sub-section (1).

(3) Upon the constitution of a local authority the Governor-General shall transfer to such local authority all such land or erven as are held by him in trust for that local authority.

(4) Pending the constitution of a local authority the Administrator may direct or may by regulation prescribe that the whole or any portion of any land or erven which have before or after the coming into operation of this Ordinance been transferred to the Governor-General in trust may be used directly or through a committee for the benefit of the inhabitants of the township in such manner and subject to such conditions as he may deem fit.

(5) Pending the constitution of a local authority the Governor-General may on the recommendation of the Administrator sell, donate, or exchange for other land or erven the whole or any portion of any land or erven which have before or after the coming into operation of this Ordinance been transferred to the Governor-General in trust.

(6) Should any land or erven which have been transferred to the Government for Government purposes pursuant to the provisions of this Ordinance or any prior law be, in the opinion of the Governor-General, no longer suitable or required for Government purposes, the Governor-General may sell, donate, or exchange for other land any of the land or erven so transferred and

\* Added by section *three* of Ordinance No. 20 of 1941.

† Substituted by section *two* of Ordinance No. 6 of 1933.

‡ As amended by section *four* of Ordinance No. 11 of 1933 and section *four* of Ordinance No. 20 of 1941.

authorize the issue of title in respect thereof free from any restriction limiting the use of the land to Government purposes. Due notice of the intention to sell, donate, or exchange such land for other land, shall be given to the Administrator.

#### Ownership of Public Vests in Local Authority or the Governor-General in Trust.

25. (1) From the date of the promulgation of the proclamation referred to in sub-section (4) of section *twenty* the ownership of all public places in a township shall subject to the provisions of section *twenty-six ipso facto* vest in the local authority or in the Governor-General in trust for a future local authority as the case may be.

(2) The Registrar of Deeds shall record such vesting in the township register.

(3) Upon the constitution of a local authority the Registrar of Deeds shall record such vesting in the township register.

#### Result of Cancellation of General Plan.

\*26. (1) If the general plan of any township be totally cancelled by the Surveyor-General under the powers vested in him by section *thirty* of the Land Survey Act, 1927, such township shall cease to exist as a township and the ownership of all public places therein vested in the local authority or in the Governor-General in trust for a future local authority as the case may be in terms of section *twenty-five* shall *ipso facto* revert in the township owner, and the Registrar of Deeds shall record such re-vesting and shall make the necessary endorsements on the relative title-deeds in accordance with the law relating to the registration of deeds.

(2) If the general plan of any township be partially cancelled by the Surveyor-General under the powers vested in him by section *thirty* of the Land Survey Act, 1927, the cancelled portion of such township shall cease to exist as a portion of a township and the ownership of all public places within the cancelled portion vested in the local authority or in the Governor-General in trust for a future local authority as the case may be in terms of section *twenty-five* shall *ipso facto* revert in the township owner, and the Registrar of Deeds shall record such re-vesting and shall make the necessary endorsements on the relative title-deeds in accordance with the law relating to the registration of deeds.

(3) If the general plan of any township be totally or partially cancelled by the Surveyor-General under the powers vested in him by section *thirty* of the Land Survey Act, 1927, the land or erven within such cancelled township or cancelled portion of the township as the case may be which have been transferred in terms of section *twenty-four* shall *ipso facto* revert in the township owner and the Registrar of Deeds shall make appropriate notes on the transfers concerned and in his registers; provided that should the transferee have incurred or committed himself to any expenditure in respect of the land or erven transferred such re-vesting shall not take place unless and until such expenditure has been refunded to the transferee or the transferee has signified to the Registrar of Deeds that he waives all claim he may have to such a refund.

(4) (a) Notwithstanding anything to the contrary in any law contained whenever the Surveyor-General shall in the exercise of any of the powers conferred upon him by section *thirty* of the Land Survey Act, No. 9 of 1927 alter or amend any general plan of any township, the Administrator may, subject to the provision of paragraph (b) of this sub-section and upon the recommendation of the board, by proclamation in the *Gazette* impose conditions where no conditions governing the establishment of the township exist or amend or alter any of the conditions upon which such establishment was approved or impose further conditions.

(b) The power hereby conferred upon the Administrator shall not be exercised—

(i) unless the local authority, if any, has been consulted;

(ii) unless proof is adduced that no erf shown on such general plan has been transferred or leased to any person other than the Government or the Governor-General in trust for any local authority or in the event of any erf having been so transferred or leased the township owner or his successor in title has re-acquired the unencumbered ownership thereof; or

(iii) where any erf shown on such general plan has been so transferred or leased and the township owner or his successor in title has not re-acquired the same as aforesaid unless there is produced to the Administrator an order of court authorizing him to exercise such power or a written statement from the owner or lessee of every such erf and of the holder of every mortgage bond hypothecating any erf shown on such general plan to the effect that he has no objection to the exercise of such power.

(c) Nothing in this section contained shall be construed as conferring upon the Administrator the power to alter the name of any township.

(d) The provisions of this sub-section shall be deemed to have been in operation with effect from the first day of September, 1932.

\* As amended by section *three* of Ordinance No. 6 of 1933 and section *five* of Ordinance No. 20 of 1941

**Endowment Moneys.**

\*27. (1) When granting any application for the establishment of a township the Administrator may, after having considered the recommendations of the Board, lay it down as a condition—

(a) that the owner shall cause to be carried out such work in connection with the construction of streets in the township as may be laid down in such condition; and/or

(b) that the township owner shall pay, as an endowment, to the local authority within whose area of jurisdiction the township is situated, or to the Administrator if it is not situated within the area of jurisdiction of a local authority, such sum of money as may be fixed by the Administrator when imposing this condition; and/or

(c) that the township owner shall transfer to the local authority within whose area of jurisdiction the township is situated or to the Governor-General in trust if it is not situated within the area of jurisdiction of a local authority, such erven in the township as may be specified by the Administrator when imposing this condition; provided that if the township is situated within the area of jurisdiction of a local authority the Administrator shall not determine that such transfer shall take place unless the consent of such local authority has been obtained; and/or

(d) that whenever any erf in the township other than an erf transferred in terms of section *twenty-four* is disposed of by the township owner by way of sale, barter or gift or in any other manner, such owner shall pay, as an endowment, to the local authority within whose area of jurisdiction such erf is situated on the date of such disposal or to the Administrator if it is not situated within the area of jurisdiction of a local authority on that date, such percentage as may be fixed by the Administrator when imposing this condition, of the value of such erf as at the date of such disposal and for the purposes of this paragraph such value shall be determined in the following manner:—

(i) if there be a purchase price, in money, such purchase price shall, subject to the provisions of sub-paragraphs (ii), (iii) and (v) of this paragraph, be deemed to be the value of such erf;

(ii) if the local authority or the Administrator, as the case may be, is of the opinion that the said purchase price does not reflect the fair and just value of the erf a sworn valuation of the erf may be obtained from a sworn valuator appointed by the local authority or the Administrator, as the case may be;

(iii) the valuation placed on such erf by such valuator shall, subject to the provisions of sub-paragraph (v) of this paragraph, be deemed for the purposes of this paragraph, to be the value of the erf and shall be final;

(iv) if the valuation placed on the erf by the valuator is higher than the said purchase price the township owner shall pay the costs incurred in connection with the valuation;

(v) if such valuation is lower than the said purchase price the purchase price shall be deemed to be the value of such erf;

(vi) if there be no purchase price in money the said value shall be arrived at by valuation as aforesaid and the township owner shall pay the costs incurred in connection with the valuation;

(vii) whenever two or more erven together are disposed of as aforesaid the local authority or the Administrator, as the case may be, shall for the purpose of determining the value of such erven have the right to obtain a sworn valuation in respect of each erf separately;

Provided that whenever an erf is donated by the township owner to a religious body for purposes of public worship no endowment shall be paid in respect of such erf; provided further that if an erf donated by the township owner to a religious body for purposes of public worship is no longer required for purposes of public worship such religious body shall pay the endowment on the value of the erf as at the date from which it is no longer required for public worship; provided further that if an erf is sold by the township owner to a religious body for purposes of public worship the provisions of sub-paragraphs (ii) to (v) (both sub-paragraphs included) shall not apply and the price at which the erf is sold shall for the purposes of this paragraph be deemed to be the value of the erf; provided further that if an erf sold by the township owner to a religious body for purposes of public worship is no longer required for purposes of public worship such religious body shall, if such erf was in the opinion of the local authority or the Administrator, as the case may be, sold to such religious body at less than the fair and just value of the erf, pay the endowment on the difference between the value of the erf on the date from which it is no longer required for purposes of public worship and the amount for which it was sold to such religious body;

\* As amended by section *six* of Ordinance No. 20 of 1941.

(2) Whenever any amount is paid to the Administrator in terms of paragraph (b) or (d) of sub-section (1) of this section such amount shall subject to the provisions of sub-section (3) of this section, be held in trust by him for any local authority which may subsequent to the date of such payment be constituted for such township. The Administrator shall as soon as possible after the constitution of such local authority pay such amount to it without interest after deduction of any amount expended by him under sub-section (3) of this section;

(3) (a) Pending the constitution of a local authority the Administrator may from time to time devote and expend in such manner as he may deem fit the whole or any portion of the money held by him in trust for such local authority on services of a capital nature for the use and benefit of the inhabitants of the township.

(b) Whenever the Administrator causes a sworn valuation to be made in terms of paragraph (d) of sub-section (1) of this section and the township owner is not liable for payment of the costs incurred in connection with the valuation or the township owner is liable for the payment of such costs but the same cannot be collected from him, the Administrator may pay such costs out of moneys held in trust by him for such future local authority.

(4) All amounts paid to a local authority under this Ordinance as an endowment shall be regarded as moneys received by the local authority from the sale of immovable property and shall be applied only to services of a capital nature in or for the township in respect of which the endowment moneys were paid, or to such other services as may be approved by the Administrator.

#### Where Local Authority Desires to Establish a Township.

28. Subject to the provisions of section five of the Townships Amendment Act, 1908 (Transvaal), and notwithstanding anything in any law contained relating to the alienation by a local authority of land or immovable property vested in it a local authority which desires in terms of sub-section (20) of section seventy-nine of the Local Government Ordinance, 1926, or any amendment thereof, to establish a township on lands vested in it shall make application under sub-section (1) of section eleven and thereupon the provisions of this chapter shall *mutatis mutandis* apply to such application; provided that no reserves shall be made as provided by sub-section (1) (b) of section twenty-four provided further that the streets, squares and open spaces shown on the plans mentioned in section nineteen shall be deemed to be appropriated and set apart by proper authority for the use of the public when the township has been proclaimed as an approved township.

#### Alteration, Suspension or Removal of Conditions of Title.

\*29. (1) Notwithstanding anything to the contrary in this Ordinance or any other law contained any person, including the Provincial Secretary, may apply to the Administrator for the alteration, suspension or removal of—

(a) any restrictive covenant registered against the title, or

(b) any condition imposed under the provisions of this Ordinance or any prior law, restricting or in any way affecting the use or occupation of any erf situated in a township established or proclaimed before or after the coming into operation of this Ordinance. Such application shall—

(i) be in writing;

(ii) contain the address of the owner of the erf concerned, unless the address cannot be ascertained by the applicant;

(iii) contain such other information as may be required by the Administrator;

(iv) be accompanied by the title deed of the erf concerned; and

(v) be dealt with in the manner prescribed by sub-sections (2) to (7) (both sub-sections included) of this section.

(2) On receipt of the application the Administrator shall refer it to the Board for consideration and report.

(3) The applicant shall deposit with the Provincial Secretary such sum of money as the Administrator shall consider sufficient to cover the expenses referred to in sub-section (1) of section twelve which sub-section shall *mutatis mutandis* apply to such application and the applicant shall also give an undertaking to defray any such expenses in excess of the amount so deposited; provided that where the Provincial Secretary is the applicant he shall not be required to make the deposit or to give the undertaking.

(4) After the requirements of sub-section (3) of this section have been complied with (if applicable) the Board shall—

(a) publish a notice once a week for three consecutive weeks in the *Gazette* and in at least one English and one Afrikaans newspaper circulating in the district in which the township concerned is situated setting out full particulars of the proposed alteration, suspension or removal of the said condition

\* As amended by section seven of Ordinance No. 20 of 1941.

and calling on any person who has any objection to the alteration, suspension or removal to lodge his objection with the Board in writing not later than a specified date which shall be at least thirty days from the date of publication of the *Gazette* or newspaper in which the notice will be published last; and

(b) transmit a copy of the notice to—

(i) the township owner concerned to his address as recorded in the office of the Secretary of the Board;

(ii) the local authority within whose area of jurisdiction the erf concerned is situated; and

(iii) the owner of the erf concerned, unless the applicant is the owner or the address of the owner cannot be furnished by the applicant.

(5) (a) The Board shall fix the time when and place where the application will be considered and shall as soon as possible after the time for the lodging of objections has expired notify the applicant and objectors (if any) of the time when and place where the application will be considered and communicate full particulars of every objection to the applicant.

(b) Every applicant and objector shall be entitled to lead evidence and to be heard in support thereof by the Board. Every objector may, instead of leading evidence or himself giving evidence, make representations in writing to the Board; provided that such representations shall be in the hands of the Board not later than seven days after the time for the lodging of objections has expired.

(c) The Board may inspect the erf or any other place in the township concerned and may adjourn any meeting to a future date; provided that the applicant and all objectors (if any) shall be advised of such inspection or adjournment.

(6) As soon as possible after the date on which the application has been considered, the Board shall recommend to the Administrator—

(a) that the application be refused; or

(b) that the application be granted subject to such conditions as it may deem fit.

(7) Notwithstanding anything to the contrary in this Ordinance or any other law contained, the Administrator may on receipt of the recommendation of the Board—

(a) refuse the application; or

(b) by proclamation in the *Gazette*, alter, suspend or remove any condition referred to in sub-section (1) of this section either permanently or for such period as may be specified by him in such proclamation subject to such conditions (if any) as may be specified by him in the proclamation; provided that if the Board recommended that conditions be imposed the Administrator shall not modify any of those conditions or impose additional conditions without further reference to the Board; provided further that if the Board did not recommend that conditions be imposed the Administrator shall not impose any conditions without further reference to the Board.

(8) The Administrator shall as soon as possible after publication of the proclamation referred to in sub-section (7) of this section, transmit or cause to be transmitted to the Registrar of Deeds the title deed of the erf concerned for endorsement. The Registrar of Deeds shall endorse the title deed accordingly and thereafter return it to the Administrator.

*In regard to the powers of the Administrator to approve the lay-out into lots not exceeding fifteen in number, section three of Ordinance No. 11 of 1933 provides:—*

Notwithstanding anything to the contrary in Chapter III of the principal law contained the Administrator may upon the recommendation of the board by notice in the *Gazette*—

(1) approve the layout or division of land (not being an erf in a township) in the vicinity of a township into portions not exceeding fifteen in number and impose such conditions as he may deem necessary; and

(2) If he is satisfied that there is reasonable cause and that the interests of other persons will not be prejudiced thereby dispense with such formalities and requirements prescribed by the said Chapter as he may determine. Any layout or division of land approved under this section shall be deemed to be an extension of such township.

*The following provisions in regard to urban settlements were added by Ordinance No. 12 of 1934—the relative sections being:—*

#### **Urban Settlement.**

2. (1) Subject to the provisions of sub-section (2) and (3) of this section and of section *three* of this Ordinance the Administrator may for the purpose of ensuring and maintaining the harmonious and orderly development of any area of land situate outside a municipality and upon the recommendation of

the board, declare any such area of land by Proclamation in the *Gazette* to be an urban settlement. He shall assign a name to such urban settlement and shall in a schedule to the said Proclamation set forth the conditions under which the urban settlement shall be laid out, occupied, controlled and governed. For the purposes of such Proclamation the Administrator may require the owner to furnish in triplicate a diagram or plan of such an area duly approved by the Surveyor-General and when so required the owner shall at his own expense, furnish such diagram or plan within such period as may be specified by the Administrator.

(2) No land situate within a township or within an area of land laid out as agricultural holdings in terms of the Agricultural Holdings (Transvaal) Registration Act No. 22 of 1919 or any amendment thereof shall be included in an urban settlement.

(3) No proclaimed land or land held under any form of mining title shall be included in an urban settlement without the consent of the Minister of Mines first had and obtained.

(4) The Administrator may, upon the recommendation of the board and subject to such conditions as he may impose, by Proclamation in the *Gazette* reduce the area of or cancel any urban settlement.

(5) Any owner who fails or refuses to furnish a diagram or plan duly approved by the Surveyor-General when required by the Administrator so to do in terms of sub-section (1) of this section shall be guilty of an offence and shall be liable upon conviction to a fine not exceeding fifty pounds (£50) or in default of payment to imprisonment for a period not exceeding six months unless such fine be sooner paid.

#### Procedure.

3. (1) If at any time it appears to the Administrator upon representations being made to him that any area of land situate outside a municipality is being or is intended to be or has been arranged, laid out, divided surveyed, sold, transferred, occupied or leased for residential, business, industrial, building, occupational or similar purposes and that the said area is likely, in his opinion, to be destined for urban settlement he shall by notice published once a week during three consecutive weeks in the *Gazette* and in a newspaper circulating in the district in which such area is situate state his intention to refer the matter to the board for investigation and report with a view to proclaiming the said area an urban settlement.

(2) It shall be competent for any person interested within thirty days of the first publication of the said notice in the *Gazette* to lodge with the Administrator an objection in writing against his proposal.

(3) After the expiry of the said thirty days the Administrator shall refer the matter to the board for its report and recommendations together with any objections against his proposal.

(4) Whenever the Administrator shall refer the matter to the board as aforesaid the board shall, within thirty days of the receipt of the communication from the Administrator, cause an inspection of the area to be made by one or more of its members.

(5) The date of such inspection shall be communicated timeously by the board to every objector, who shall be entitled to make any such representations to the board as he may desire on or before the said date.

(6) As soon as possible after such inspection the board shall consider the matter together with the objections and representations, if any, made by every such objector and shall report with its recommendations to the Administrator.

(7) If the board recommends that the Administrator shall declare the said area to be an urban settlement in terms of sub-section (1) of section two of this Ordinance, it shall recommend the conditions under which the proposed urban settlement shall be laid out, occupied, controlled and governed.

(8) The Administrator may make such modifications of the conditions recommended by the board as he may think fit.

#### General Plan of Urban Settlement.

4. (1) (a) Whenever an area of land has been proclaimed an urban settlement under sub-section (1) of section two of this Ordinance and such land has been sub-divided in accordance with approved diagrams, the Surveyor-General shall compile for record a general plan of all the pieces of land situate within such area and shall transmit to the Registrar of Deeds a copy of the aforesaid plan together with a list of such pieces of land with such information as shall identify them with the respective title-deeds under which they are held. A distinctive number shall be assigned to each piece of land enumerated in the list which number as well as the name of the urban settlement shall be repeated in every subsequent deed of transfer or grant of the said piece of land and in every diagram of a sub-division thereof.



(b) Where, however, such area has not been sub-divided as aforesaid the Surveyor-General shall forward to the Registrar of Deeds a copy of the diagram or plan referred to in sub-section (1) of section *two* of this Ordinance.

(2) Whenever any urban settlement is reduced or cancelled under sub-section (3) of section *two* of this Ordinance the Surveyor-General shall effect the necessary alterations of the general plan compiled by him or cancel such general plan as the case may be and shall supply the Registrar of Deeds with such information as will enable that officer to make whatever alterations may be necessary in his registers as a consequence of such reduction or cancellation.

#### **Sub-Division of Land in Urban Settlement.**

5. (1) Any owner who proposes to subdivide any land situate within an urban settlement shall make application to the board for permission so to do.

(2) The board may grant or refuse the application, and, if the application be granted, may impose such conditions as it may deem necessary.

(3) Any applicant who is aggrieved at a refusal by the board hereunder may within a period of thirty days of such refusal appeal to the Administrator, whose decision in the matter shall be final.

#### **Approval of Diagrams of Sub-Division.**

6. The Surveyor-General shall not approve the diagram of any sub-division of land within an urban settlement except upon production to him of proof of the approval of the board or the Administrator, as the case may be, of such sub-division and after the conditions, if any, imposed in connection therewith shall have been complied with in so far as such conditions are applicable as at the date when such diagram is lodged.

#### **Circumstances under which Urban Settlements Become Approved Townships.**

7. (1) Notwithstanding anything to the contrary in this Ordinance contained whenever the Administrator shall in terms of the Local Government Ordinance, 1926, or any amendment thereof—

(a) constitute a local authority within whose area of jurisdiction is included any urban settlement; or

(b) alter the boundaries of any municipality so as to include therein any urban settlement

the provisions of any Proclamation issued under sub-section (1) of section *two* of this Ordinance shall continue to have force and effect in respect of any such urban settlement until the Administrator shall by Proclamation in the *Gazette* declare any such urban settlement to be an approved township, in terms of sub-section (2) of this section.

(2) (a) At any time after any urban settlement has been included within the boundaries of a municipality as aforesaid the Administrator may refer the question of establishing a township in lieu of such urban settlement to the board for consideration.

(b) If, after reference to the board, the Administrator shall deem it advisable that a township shall be established in lieu of any such urban settlement he may, on the advice of the board, give directions that all such steps as he may deem necessary or desirable shall be taken so that the intent and purpose of Chapter III of the principal law may have effect.

(c) When the matter has been completed in accordance with the directions of the Administrator as aforesaid the Administrator may by Proclamation in the *Gazette* declare any such urban settlement to be an approved township and thereupon such urban settlement shall be an approved township as if the same had been proclaimed as such in terms of sub-section (4) of section *twenty* of the principal law provided that the Administrator shall set forth in a schedule to such Proclamation the conditions upon which the establishment of the township in lieu of such urban settlement has been approved.

(3) It shall be the duty of the local authority to enforce the observance of all conditions imposed by the Administrator under this Ordinance in respect of any urban settlement or of any approved township in lieu of such urban settlement in so far as such conditions are relative to matters within the purview of the local authority.

#### **Penalty.**

8. Any person who after the publication of any Proclamation issued in terms of sub-section (1) of section *two* of this Ordinance occupies, permits occupation, sells, leases or otherwise disposes of an urban settlement or any portion thereof in contravention of any of the conditions imposed by the Administrator as aforesaid shall be guilty of an offence and shall on conviction be liable to a fine of not exceeding two hundred pounds (£200) or in default of payment to imprisonment for a period not exceeding six months unless such fine be sooner paid.

## CHAPTER IV.—TOWN-PLANNING.

**Application of Chapter IV of this Ordinance.**

30. This chapter shall apply to every municipality mentioned in the Second Schedule hereto and to every other municipality to which the said chapter shall apply in terms of the next succeeding section.

**Powers of Administrator to Apply Chapter IV to any other Municipality.**

31. (1) Subject to the provisions of sub-sections (2), (3) and (4) hereof the Administrator may from time to time after consultation with the local authority concerned by Proclamation in the *Gazette* apply the provisions of this chapter of this Ordinance to any municipality other than to a municipality mentioned in the Second Schedule.

(2) Before the power conferred by the preceding sub-section is exercised the Administrator shall notify an intention to exercise such power—

(a) by written notice to the local authority of the municipality concerned; and

(b) by notice once a week for three consecutive weeks in the *Gazette* and in a newspaper circulating in the municipality concerned.

(3) It shall be competent for any person interested or the local authority concerned within thirty days of the first publication of the said notice in the *Gazette* to present to the Administrator a petition setting forth the grounds of opposition to the exercise by the Administrator of the power conferred upon him by sub-section (1).

(4) Upon receipt of any such petition the Administrator shall refer the same to the Board for consideration and report; if no sufficient cause has been shown why the power proposed to be exercised shall not be exercised the Administrator may exercise such power.

**General Purpose of Townplanning Scheme.**

32. Every town-planning scheme shall have for its general purpose a co-ordinated and harmonious development of the municipality to which it relates (including where necessary the reconstruction of any area therein which has already been sub-divided and built upon) in such a way as will most effectively tend to promote health, safety, order, amenity, convenience and general welfare as well as efficiency and economy in the process of such development.

**Obligation to Prepare Town-planning Scheme.**

\*33. Every city council or town council of a municipality to which the provisions of this chapter have been applied by section *thirty* shall within a period of three years from the date of publication of regulations under this Ordinance or within such further period or periods as the Administrator may in particular circumstances allow, prepare and submit to the Administrator in such form as may be prescribed in a town-planning scheme, hereinafter referred to as a scheme, in respect of all the land situated within the municipality and, with the consent of the Administrator, specified land outside the boundaries of such municipality.

**Every other Council to which Chapter Applied to Prepare Scheme.**

†34. Every local authority of a municipality to which the provisions of the chapter of this Ordinance have been applied in terms of sub-section (1) of section *thirty-one* shall within a period of three years from the date of the proclamation applying such provisions or within such further period or periods as the Administrator may in particular circumstances allow, prepare and submit to the Administrator a scheme in respect of all the land situate within the municipality and, with the consent of the Administrator, specified land outside the boundaries of such municipality.

**Local Authority may Prepare a Scheme.**

‡35. (1) The local authority of any municipality which has not been required to submit a scheme as aforesaid may on its own initiative prepare and submit to the Administrator a scheme in respect of all the land situate within the municipality and, with the consent of the Administrator, specified lands outside the boundaries of such municipality.

(2) Notice of intention to prepare a scheme hereunder for submission to the Administrator shall be given by the local authority by means of an advertisement once a week for three weeks in the *Gazette* and in a newspaper in the area in respect of which the scheme will be prepared. The provisions of this chapter shall then apply in and to the area in respect of which the scheme will be prepared as from the date of the said advertisement.

\* As amended by section *eight* of Ordinance No. 20 of 1941.

† As amended by section *nine* of Ordinance No. 20 of 1941.

‡ As amended by section *ten* of Ordinance No. 20 of 1941.

**Town-planning Committee.**

36. For the purpose of the preparation of a scheme a local authority may appoint a town-planning committee (the members of which need not necessarily be members of the local authority) and may confer with or without restriction on any such committee any powers which such local authority may exercise to that end.

**Preparation of Joint Scheme.**

\*37. (1) Where two or more local authorities are desirous of acting jointly for any of the purposes of this Ordinance they may concur in appointing a joint town-planning committee for those purposes and in delegating with or without restrictions, to that committee any powers, other than the power to borrow money or levy a rate, which any of the constituent local authorities might exercise for those purposes.

A committee so appointed is in this section referred to as "a joint committee".

(2) Every person appointed to represent a constituent local authority on a joint committee must be a member of one, at least, of the constituent authorities but the same person may be appointed to represent two or more of those authorities.

(3) A constituent local authority may appoint its representative on a joint committee to serve as such for so long as he holds office as a member of any one of the constituent local authorities, or for any shorter period.

(4) A joint committee may, unless two-thirds at least of the constituent local authorities otherwise resolve, co-opt persons, whether members of a constituent local authority or not, to serve as additional members of the committee so, however, that the number of persons so co-opted shall not exceed one-half of the number of the appointed members of the committee.

(5) A joint committee may, subject to any directions concurred in by all the constituent local authorities, appoint such and so many sub-committees, consisting either wholly or partly of members of the committee, as the committee think fit.

(6) The costs of a joint committee shall be defrayed by the constituent local authorities, or some or one of them, as they may agree, and if any question arises as to the local authorities or local authority, by whom, or the proportions in which, any such costs are to be defrayed, that question shall be determined by the Administrator.

**Matters to be Considered in Preparation of Scheme.**

38. In the preparation of a scheme under this Ordinance, due consideration shall be given to the matters referred to in the first Schedule to this Ordinance.

**Discretionary Local Powers of Local Authorities and Appeals.**

†38*bis*. (1) A scheme may provide that the local authority may in its discretion grant exemption from or relax such of the provisions of the scheme as are specified in the scheme, on such conditions, if any, as it may deem fit.

(2) (a) A scheme may further provide for an appeal from any decision of the local authority to the Board. If the decision is one which the local authority is required to give upon the application of a person or upon the submission by a person of plans or proposals, the scheme may provide that an appeal shall in addition lie against the refusal of the local authority to give or unreasonable delay on its part in giving a decision and that the appeal shall be made as if it were an appeal against a decision of the local authority.

(b) The scheme may provide that written notice of appeal shall be given to the local authority and the Board, that notice of appeal shall be given within a specified period and that such period may be extended by the Board.

(3) The Board may affirm, vary or reverse the decision of any such local authority or if the local authority has refused or has unreasonably delayed to give a decision, may give any decision which it would have been competent for the local authority to give.

(4) (a) The Board shall order that the expenses incurred by it in connection with the appeal shall be paid by one of the parties or by such parties and in such proportions as the Board may determine.

(b) The Board may make such order as to the costs of the parties as to it may seem just. If the Board awards costs against any party the Board shall in its absolute discretion determine the amount thereof.

(c) An order made under paragraph (a) or (b) of this sub-section for the payment of expenses or costs shall have the effect of a civil judgment and shall be executable in the same manner as such a judgment.

\* As substituted by section four of Ordinance No. 6 of 1933.

† Added by section two of Ordinance No. 10 of 1943.

(5) Whenever the Board has decided a matter on appeal its decision shall be final.

(6) Any provisions included in a scheme in terms of this section shall notwithstanding anything to the contrary in this Ordinance contained come into operation on the date on which the notification referred to in sub-section (1) of section *thirty-nine* is first published.

#### **Scheme to be Referred to Board.**

\*39. (1) On the submission to him of any scheme the Administrator shall refer it to the Board which shall forthwith publish a notification once a week during three consecutive weeks in the *Gazette* and in a newspaper circulating in the area to which the scheme applies to the effect that a scheme has been submitted and that copies of it and of the relative maps, plans and other details of the scheme are lying for inspection at the office of the local authority and of the secretary of the Board.

(2) Every owner or occupier of immovable property situated within the area to which the scheme applies shall have a right of objection to the scheme and may notify the Board in writing of such objection and of the grounds thereof at any time within one month after the last publication in the *Gazette* of the notice referred to in sub-section (1).

#### **Objection to Scheme.**

40. (1) On the expiry of the period prescribed in sub-section (2) of section *thirty-nine* and in the event of objections to the scheme having been received the Board shall fix a day for the hearing of such objections and not less than fourteen days before the day so fixed the Board shall forward copies of all objections received to the local authority concerned and shall notify to such local authority and the objectors the hour, day and place fixed for the hearing of the objections.

(2) At the hearing of any such objections any local authority or objector may be represented by counsel or attorney. Such hearing shall be open to the public.

#### **Modification of Scheme.**

41. After hearing the objectors (if any) and the local authority the Board may before approval of the scheme require its modification in whole or in part and the local authority shall be bound to comply with the requirements of the Board; provided that if such modifications involves any additional expenditure on the part of the local authority over and above the provision made for the proposed scheme such local authority may appeal against the decision of the Board hereunder to the Administrator whose decision in the matter shall be final.

#### **Mining Area Included in Scheme.**

†42. If proclaimed land or land held under mining-title be included in a scheme the approval of the Minister of Mines to that portion of the scheme situate within such proclaimed land or land held under mining-title shall be furnished to the Board by the local authority before the recommendation of the Board is submitted to the Administrator under section *forty-three*; provided that the withholding of such approval shall not prevent the completion and approval of the scheme in respect of the remaining area.

#### **Approval and Proclamation of Schemes.**

‡43. (1) The Board shall after all its requirements (including all such requirements, if any, in accordance with the decision of the Administrator under section *forty-one*) have been complied with recommend to the Administrator that the scheme be approved. The Administrator may thereupon approve the scheme with any such modifications thereof as he may deem fit; provided that no such modifications shall be made without further reference to the Board.

(2) The approved scheme shall not be published in the *Gazette* but the Administrator shall in lieu of such publication by proclamation in the *Gazette* notify that the scheme has been approved by him and that it will be open for inspection at all reasonable times in the offices of the local authority concerned and the Secretary of the Board.

(3) The local authority concerned and the Secretary of the Board shall ensure that the approved scheme is kept open for inspection in their respective offices at all reasonable times from the date on which the Administrator notifies by proclamation in the *Gazette* that the scheme has been approved.

(4) The Administrator shall cause copies of the approved scheme to be lodged with the Surveyor-General and the Registrar of Deeds.

\* As amended by section *eleven* of Ordinance No. 20 of 1941.

† As amended by section *twelve* of Ordinance No. 20 of 1941.

‡ As substituted by section *three* of Ordinance No. 10 of 1943.

**Operation of Town-planning Scheme.**

\*44. (1) (a) When a scheme has been approved and proclaimed as aforesaid the local authority shall observe and enforce the observance of the requirements of the scheme in respect of all new works of any description thereafter undertaken within the area to which the scheme applies whether by the local authority or by any other person; and save with the consent of the Administrator after reference to the Board the local authority shall not thereafter undertake or permit any alteration or modification or any existing works if such alteration or modification would tend to prevent or delay their being brought into conformity with the tenor of the approved scheme.

(b) Any person who, subsequent to the date on which the Administrator has by proclamation in the *Gazette* notified that a scheme has been approved by him, contravenes or fails to comply with any provision of such scheme shall be guilty of an offence and liable, on conviction, to the penalties prescribed by section *fifty-eight*; provided that if an accused person proves that at the time when the alleged offence took place he had the right referred to in sub-section (3) of this section and that the alleged offence took place as a result of the exercise of that right by him he shall be acquitted.

(c) If, after the Administrator had by proclamation in the *Gazette* notified that a scheme has been approved by him, any person undertakes or proceeds with the erection or alteration of or addition to any building or any structure of any nature or description whatsoever or performs, undertakes or proceeds with any other work of any nature or description whatsoever or causes such erection or alteration or addition to be undertaken or proceeded with or causes such other work to be performed, undertaken or proceeded with, in contravention of any of the provisions of such scheme the local authority concerned may at any time instruct such person—

(i) to discontinue or cause to be discontinued such erection, alteration, addition or other work, and/or

(ii) at his own expense to remove or cause to be removed such building, structure or other work, or

(iii) at his own expense to cause such building, structure or other work to conform with the provisions of such scheme.

Such instruction shall be in writing and shall specify the period within which the instruction must be carried out.

(d) (i) Any person who fails to carry out any instruction given in terms of paragraph (c) of this sub-section shall be guilty of an offence and liable on conviction to the penalties prescribed by section *fifty-eight*.

(ii) Whenever any person fails to carry out any instruction given in terms of paragraph (c) (ii) or (c) (iii) of this sub-section the local authority concerned may, whether or not a prosecution has been or will be instituted against such person, cause such building, structure or other work to be removed or to conform with the provisions of such scheme and recover all expenses incurred in connection therewith from such person.

(2) Subject to the provisions of section *forty-nine* whenever a scheme has been approved and proclaimed as aforesaid the local authority shall, notwithstanding anything in any other law contained, have the power to take for the purposes of a scheme any land or buildings if it is satisfied that the acquisition thereof is necessary for or ancillary to the proper carrying out of the said scheme.

(3) If any land or building except a building in respect of which in terms of paragraph (c) of sub-section (2) of section *forty-nine* no compensation is payable is used by the owner thereof on the date on which the Administrator notifies by proclamation in the *Gazette* that a scheme has been approved and if such use constitutes a breach of any of the provisions of such scheme but is otherwise lawful, such owner shall, unless the land or building is taken by the local authority in terms of sub-section (2) of this section, have the right to continue using such land or building for the purpose for which he was using it on the aforesaid date; provided that such scheme may provide that such right shall lapse if such land or building is not used for a specified period and if such land or buildings is not used during such period such right shall automatically lapse on the expiration of that period. In any proceedings in which it is alleged that such right has lapsed as aforesaid the person claiming the right shall prove that it has not lapsed.

(4) (a) Whenever a local authority is of opinion that any land will be taken by it in terms of sub-section (2) of this section such local authority may, by notice in writing, prohibit any person from undertaking or proceeding on such land with the erection or alteration of or addition to any building or any structure of any nature or description whatsoever or from performing, undertaking or proceeding with any other work of any nature or description whatsoever on such land or from causing such erection or alteration or

\* As amended by section *one* of Ordinance No. 10 of 1938 and section *fourteen* of Ordinance No. 20 of 1941.

addition to be undertaken or proceeded with or from causing such other work to be performed, undertaken or proceeded with; provided that if a scheme is subsequently approved by the Administrator and such land is not taken by such local authority under the said sub-section (2) within a reasonable period from the date on which the Administrator notifies by proclamation in the *Gazette* that the scheme has been approved, such person shall be entitled to recover in any Court of competent jurisdiction the loss suffered by him on account of the said prohibition.

(b) Any person who contravenes or fails to comply with any provision of a prohibition issued under paragraph (a) of this sub-section shall be guilty of an offence and liable, on conviction, to the penalties prescribed by section *fifty-eight*.

(c) If any person undertakes or proceeds with the erection or alteration of or addition to any building or any structure of any nature or description whatsoever or performs, undertakes or proceeds with any other work of any nature or description whatsoever, or causes such erection or alteration or addition to be undertaken or proceeded with, or causes such other work to be performed, undertaken or proceeded with in contravention of a prohibition issued in terms of paragraph (a) of this sub-section, the local authority may, if the land concerned is taken by it in terms of sub-section (2) of this section, instruct such person—

(i) to discontinue or cause to be discontinued such erection, alteration, addition or other work, and/or

(ii) at his own expense to remove or cause to be removed such building, structure or other work, or

(iii) at his own expense to cause such building, structure or other work to conform with the provisions of an approved scheme.

Such instruction shall be in writing and shall specify the period within which the instruction must be carried out.

(d) (i) Any person who fails to carry out any instruction given under paragraph (c) of this sub-section shall be guilty of an offence and liable, on conviction, to penalties prescribed by section *fifty-eight*.

(ii) Whenever any person fails to carry out any instruction given in terms of paragraph (c) (ii) or (c) (iii) of this sub-section the local authority concerned may, whether or not a prosecution has been or will be instituted against such person, cause such building, structure or other work to be removed or to conform with the provisions of such scheme and recover all expenses incurred in connection therewith from such person.

#### **Certain Provisions Inapplicable.**

\*45. Should any of the by-laws of a local authority be in conflict with the requirements of an approved scheme such by-laws shall in so far as such conflict is concerned be of no effect.

#### **Approved Scheme may be Modified or Elaborated with Approval of the Administrator.**

+46. (1) Any local authority may from time to time of its own motion, and shall if so required by the Administrator after consultation with the Board elaborate any of the provisions of its approved scheme, or enlarge its scheme, if manifestly inadequate, or may on application to the Administrator modify or alter any of the details of the scheme or substitute a new scheme for the approved scheme.

(2) The provisions of this chapter shall *mutatis mutandis* apply with respect to any alteration of or addition to a scheme and to every new scheme substituted for an approved scheme.

(3) If, subsequent to the date on which the Administrator has by proclamation in the *Gazette* notified that a scheme has been approved by him, it is found that there are any errors or omissions in the scheme which are of such a nature that it is in the opinion of the Administrator unnecessary to follow the procedure prescribed by sub-section (2) of this section for the rectification of such errors or omissions, the Administrator may on the recommendation of the Board by proclamation in the *Gazette* rectify any such errors or omissions.

#### **Duties of Owners of Land Affected by Scheme.**

‡47. Whenever a scheme has been approved by the Administrator the local authority may by written notice call upon the owner of the land affected by the scheme to—

(a) take such steps as may be necessary to alter the original lay-out or sub-division of the land so as to conform to the scheme as approved by the Administrator;

(b) cause any necessary alterations to be duly recorded on the plans and diagrams in the office of the Surveyor-General and in the Deeds Registry; and

\* As amended by section *fifteen* of Ordinance No. 20 of 1941.

† As amended by section *four* of Ordinance No. 10 of 1943.

‡ As amended by section *two* of Ordinance No. 10 of 1938.

(c) effect any transfers which may be rendered necessary by the scheme or by the exercise by a local authority of the powers conferred by sub-section (2) of section *forty-four*.

Any expense incurred by the owner aforesaid under the provisions of this section shall be borne by the local authority.

#### Approval of Sub-Division of Land included in Scheme.

\*48. The Surveyor-General shall not approve a general plan or diagram of any sub-division of land in an area to which a scheme which has been approved by the Administrator applies, unless such sub-division is in accordance with the approved scheme.

#### Persons Injuriouly Affected by Town-Planning Schemes Entitled to Claim Compensation.

†49. (1) (a) Any person having an interest in any land taken by a local authority in terms of sub-section (2) of section *forty-four* shall subject to the provisions of this section, be entitled to claim compensation from such local authority for any loss or damage thereby sustained by him; provided that if he fails to lodge his claim for compensation with such local authority within six months from the date on which such land is acquired by such local authority he shall no longer be entitled to any compensation.

(b) Any person having an interest in any land, buildings or improvements injuriouly affected by the operation of any of the provisions of a scheme approved by the Administrator shall, subject to the provisions of this section, be entitled to claim compensation from the local authority concerned for any damage or loss thereby sustained by him; provided that—

(i) whenever any amendment of or addition to an approved scheme is approved by the Administrator or the substitution of a new scheme for an approved scheme is approved by the Administrator, compensation in respect of land, buildings or improvements injuriouly affected by the operation of such amendment or addition or such new scheme, as the case may be, may only be claimed if and in so far as the provisions of such amendment or addition or the provisions of such new scheme are not the same or substantially the same as the provisions which have been so amended or the provisions of the scheme to which such additions have been made or the scheme which has been so revoked,

(ii) if a person fails to lodge his claim for compensation under this paragraph with the local authority concerned within six months from the date on which the Administrator notifies by proclamation in the *Gazette* that a scheme has been approved he shall no longer be entitled to any compensation;

(2) Subject to the provisions of sub-section (3) hereof compensation under this section shall not be payable in any of the following cases:—

(a) In respect of the operation of any provision in a scheme if such provision could have been made and enforced without liability to pay compensation by any local authority under any other law;

(b) in respect of the operation of any provision of the scheme which—

(i) regulates the open spaces in and about buildings or between buildings and the street, or

(ii) regulates the position of buildings on each erf in relation to any street or other buildings, or

(iii) limits the number of buildings which may be erected within any area and the maximum area of each erf which may be built upon, or

(iv) regulates, or empowers the local authority to regulate the size, height, design, character or external appearance of buildings, or

(v) prohibits or restricts building operations permanently on the ground that, by reason of the situation or nature of the land, the erection of buildings thereon would be likely to involve danger or injury to health or excessive expenditure of public money in the provision of roads, sewers, water supply or other public services, or

(vi) prohibits (otherwise than by way of prohibition of building operations) the use of land for a purpose likely to involve danger or injury to health, or serious detriment to the neighbourhood, or restricts (otherwise than by way of restriction of building operations) the use of the land so far as may be necessary for preventing such danger, injury or detriment, or

(vii) restricts the purpose or use to which buildings may be put, or

(viii) in the interests of safety regulates or empowers the local authority to regulate the height and position of proposed walls, fences or hedges near the corners or bends of roads, or

\* As amended by section *sixteen* of Ordinance No. 20 of 1941.

† As amended by section *three* of Ordinance No. 10 of 1938 and section *seventeen* of Ordinance No. 20 of 1941, the amendments brought about by the last-mentioned being deemed to have come into operation at the commencement of the principal ordinance (section *twenty-nine*). Further amended by section *five* of Ordinance No. 10 of 1943.

- (ix) prohibits or restricts the erection of advertisement hoardings, bill-posting and advertising and the display of advertisements and the disfigurement of the front or frontage of streets, walls, fences, buildings, lands, rocks, trees or other natural features.
- (c) in respect of any building or structure of any nature or description whatsoever or any addition or alteration thereto or any other work of any nature or description whatsoever erected, undertaken or performed, or in respect of any contract made or other thing done—
- (i) after written notice from a local authority that any of the provisions of a scheme then in the course of preparation or of a scheme the preparation of which has been completed but in respect of which all the publications referred to in sub-section (1) of section *thirty-nine* have not yet taken place would be contravened if any proposed erection or alteration of or addition to any building or structure of any nature or description whatsoever is undertaken or proceeded with or if any other proposed work of any nature or description whatsoever is performed, undertaken or proceeded with, or
  - (ii) in contravention of any of the provisions of a scheme in respect of which all the publications referred to in sub-section (1) of section *thirty-nine* have taken place, or
  - (iii) in contravention of any of the provisions of a scheme the approval of which has been notified by the Administrator by proclamation in the *Gazette*, or
  - (iv) in contravention of a prohibition issued by a local authority in terms of paragraph (a) of sub-section (4) of section *forty-four*, or
  - (v) in contravention of a prohibition or of the conditions of approval in a notice issued by the local authority in terms of sub-section (1) of section *fifty-two*.
- (3) The provisions of sub-section (2) shall not apply in the case of any land situate within a township in existence as at the date when any local authority commences the preparation of a scheme as hereinbefore provided, if in respect of such land, any of the matters referred to in paragraph (b) thereof are governed or regulated by any conditions of title to which such land is subject.
- (4) When a person would be entitled to claim compensation in respect of any matter or thing under this Ordinance and also under any other law he shall not be entitled to receive compensation both under this Ordinance and such other law nor to receive any greater compensation under this Ordinance than he would be entitled to receive under such other law.

#### Compensation.

50. (1) Any question as to whether any person is entitled to compensation under section *forty-nine* and as to the amount and manner of payment of such compensation shall in the absence of mutual agreement be determined by a compensation court constituted under section *fifty-one*.
- (2) In determining the amount of compensation to be paid for any land taken for the purposes of a scheme the court shall take as the value of such land the capital sum which the same might in the judgment of the court be expected to realize if offered at the time of the publication in the *Gazette* of the notice referred to in sub-section (1) of section *thirty-nine*, on such reasonable terms and conditions as a *bona fide* seller would require, due regard being had not only to such land but to other land of similar class, character, value, position and other comparative factors.
- (3) If only a portion of a claimant's land is taken for the purpose of a scheme and the remaining portion is in the opinion of the court increased in value by the operation of such scheme the court shall determine such increased value and set off the same against the value of the land taken as determined under sub-section (2).
- (4) The expression "land" for the purposes of this section includes any buildings or improvements on such land.

#### Power to Withdraw or Modify Provisions of Scheme after an Award of Compensation has been made.

- \*50bis. (1) Whenever an award of compensation in respect of a claim instituted under paragraph (b) of sub-section (1) of section *forty-nine* has been made against a local authority by a compensation court constituted under section *fifty-one*, such local authority may at any time within two months from the date on which such award was made notify the person in whose favour it was made that such local authority has decided to approach the Administrator with the request to withdraw or modify all or any of the provision which gave rise to the award.
- (2) Whenever the notification referred to in sub-section (1) of this section has been given the local authority shall within three months of the date on

\* Added by section *eighteen* of Ordinance No. 20 of 1941.



which such notification was given approach the Administrator with the request to withdraw or to amend in such manner as shall be set out by the local authority all or any of the said provisions.

(3) The provisions of this chapter shall *mutatis mutandis* apply in respect of any withdrawal or modification of the provisions referred to in sub-section (1) of this section.

(4) If the withdrawal or amendment of any of the said provisions is approved by the Administrator with or without any modification and such approval is notified by the Administrator by proclamation in the *Gazette* in terms of section *forty-three*, read with sub-section (3) of this section, the award referred to in the said sub-section (1) shall become null and void; provided that the said local authority shall pay the costs awarded by the compensation court to the person in whose favour the award was made.

(5) As soon as the said award has become null and void the person in whose favour it was made shall, if the provisions of the scheme, as amended, would entitle him to claim compensation under section *forty-nine*, have the right to institute a fresh claim under that section.

(6) An award referred to in sub-section (1) of this section shall not be enforceable before the expiration of a period of two months from the date on which it was made; provided that if the notification referred to in the said sub-section (1) has been given the award shall not be enforceable before the expiration of a period of three months from the date on which such notice was given; provided further that if within such period of three months the Administrator is approached, as set out in sub-section (2) of this section, the award shall not be enforceable unless the Administrator determines that the provisions of the scheme shall for the time being remain unaltered.

#### Constitution of Compensation Court.

\*51. (1) The Administrator may from time to time by notice in the *Gazette* constitute for the determination of claims under section *forty-nine* a court or courts consisting of an advocate or attorney or retired magistrate who shall be the president and two persons possessing knowledge and experience of the valuation of fixed property and interests incidental to the use of such property and may in like manner abolish any existing court or courts.

(2) The Administrator shall in like manner appoint a fit and proper person to fill any vacancy which may occur in the membership of a court.

(3) The Administrator may for any reason which in his opinion is good and sufficient terminate the appointment of any member.

(4) Should a member be interested directly or indirectly in any claim he shall not take part in the consideration of such claim and the Administrator shall for the purpose of such claim appoint a fit and proper person to act in his place.

(5) Should a member be incapacitated through illness or other cause the Administrator shall appoint in his place a fit and proper person to act as a member of the court during such incapacitation.

(6) The local authority concerned shall pay such fees and allowances to the members of the court as may from time to time be determined by the Administrator in consultation with such local authority.

(7) The procedure to be observed in the conduct and hearing of claims by a court and in connection with appeals from the decision of a court shall be as prescribed.

(8) The court may make such order as to costs as it may deem just and equitable in the circumstances of each case.

(9) At the hearing of claims the claimant and the local authority may be represented by counsel or attorney.

(10) The powers jurisdiction and privileges of the Commissions Powers Ordinance 1902 shall *mutatis mutandis* apply to a compensation court.

(11) Any determination of the court under this section shall be subject to appeal to the Supreme Court.

#### Prohibition of Works before Scheme has been Prepared or Proclaimed.

†52. (1) Whenever—

(a) at any time after the commencement of this Ordinance and pending the preparation and approval of a scheme it appears to any local authority of a municipality to which the provisions of this Chapter apply that the amenities of the neighbourhood would be interfered with or would not be conformed to if within the municipality—

(i) any proposed erection or alteration of or addition to any building or structure of any nature or description whatsoever is undertaken or proceeded with, or

(ii) any proposed sub-division of any land is undertaken or proceeded with, or

\* As amended by section *nineteen* of Ordinance No. 20 of 1941.

† As substituted by section *six* of Ordinance No. 10 of 1943.

(iii) any other proposed work of any nature or description whatsoever is performed, undertaken or proceeded with, or

(iv) any particular use is made of any land or any building or structure of any nature or description whatsoever, or

(b) it appears to any local authority of a municipality to which the provisions of this Chapter apply and which has a scheme then in the course of preparation or a scheme the preparation of which has been completed but which has not yet been approved and proclaimed by the Administrator that the provisions of its scheme would be contravened if within the area to which the scheme applies—

(i) any proposed erection or alteration of or addition to any building or structure of any nature or description whatsoever is undertaken or proceeded with, or

(ii) any proposed sub-division of any land is undertaken or proceeded with, or

(iii) any other proposed work of any nature or description whatsoever is performed, undertaken or proceeded with, or

(iv) any particular use is made of any land or any building or structure of any nature or description whatsoever,

the local authority may prohibit such erection, alteration, addition, sub-division, work or use or may authorise the same on specified conditions; provided that if the local authority has a scheme then in the course of preparation or a scheme the preparation of which has been completed, but which has not yet been approved and proclaimed by the Administrator, such local authority shall not grant any authority which would operate in conflict with any of the provisions of its scheme.

(2) (a) Any person who undertakes or proceeds with the erection or alteration or addition to any building or structure of any nature or description whatsoever or who performs, undertakes or proceeds with any other work of any nature or description whatsoever or who makes any particular use of any land or any building or structure of any nature or description whatsoever or who causes such erection or alteration or addition to be undertaken or proceeded with or who causes such other work to be performed, undertaken or proceeded with or who causes such use to be made—

(i) after such erection, alteration, addition, work or use has been prohibited by a local authority in terms of sub-section (1) of this section and such prohibition has not been set aside by the Board in terms of sub-section (4) of this section, or

(ii) in contravention of any of the conditions imposed by such local authority in terms of the said sub-section (1) and not set aside by the Board in terms of sub-section (4) of this section, shall be guilty of an offence and liable, on conviction, to the penalties prescribed by section *fifty-eight*.

(b) Such local authority may after the Administrator has by proclamation in the Gazette notified that such scheme has been approved instruct such person—

(i) to discontinue or cause to be discontinued such erection, alteration, addition or other work, and/or

(ii) at his own expense to remove or cause to be removed such building, structure or other work, or

(iii) at his own expense to cause such building, structure or other work to conform with the provisions of the approved scheme.

Such instruction shall be in writing and shall specify the period within which the instruction must be carried out.

(3) (a) Any person who fails to carry out any instruction given in terms of paragraph (b) of sub-section (2) of this section shall be guilty of an offence and liable on conviction, to the penalties prescribed by section *fifty-eight*.

(b) Whenever any person fails to carry out any instruction given in terms of paragraph (b) (ii) or (b) (iii) of sub-section (2) of this section the local authority concerned may, whether or not a prosecution has been or will be instituted against such person, cause such building, structure or other work to be removed or to conform with the provisions of such scheme and recover all expenses in connection therewith from such person.

(4) (a) Any decision of a local authority under sub-section (1) of this section shall be subject to an appeal to the Board.

(b) Written notice of appeal shall be given to the local authority and the Board within such period as the Board may determine.

(c) The Board may affirm, vary or reverse any such decision.

(d) (i) The Board shall order that the expenses incurred by it in connection with the appeal shall be paid by one of the parties, or by such parties and in such proportions as the Board may determine.

(ii) The Board may make such order as to the costs of the parties as to it may seem just. If the Board awards costs against any party the Board shall in its absolute discretion determine the amount thereof.

(iii) An order made under sub-paragraph (i) or (ii) of this paragraph for the payment of expenses or costs shall have the effect of a civil judgment and shall be executable in the same manner as such a judgment.

(e) Whenever the Board has decided a matter on appeal its decision shall be final.

#### How Expenditure on Schemes to be met.

\*53. Any expenditure incurred by a local authority for the purpose of preparing a scheme or giving effect to the requirements thereof or settling any claim for compensation made against a local authority under section *forty-nine* whether such be determined by agreement or by a compensation court under section *fifty* may be met from its revenue or from a loan raised under section *fifty-one* of the Local Government Ordinance, 1926, or under Ordinance No. 3 of 1903 (Transvaal) or any amendment thereof, or partly from revenue and partly from loan. Provided that where any such expenditure incurred by a local authority is in respect of some particular area of rateable property over and above expenditure common to the whole municipality, the local authority may by resolution determine that such expenditure (whether the outlay in respect thereof has or has not actually been made) is abnormal or extraordinary expenditure and shall be met in whole or in part in the manner provided by section *twenty-three* of the Local Authorities Rating Ordinance of 1933 and all the provisions of such Ordinance shall thereupon *mutatis mutandis* apply.

#### Town-Planning Adviser.

54. The Administrator may from time to time appoint a suitable person to be an adviser on town-planning with such duties and on such terms and conditions as he may determine.

#### Local Authorities' Liability for Expenses Incurred by Administrator on a Scheme.

55. (1) All expenses incurred by the Administrator in connection with a scheme in respect of the publication of notices, official visits of inspection by members of the board, meetings of the board, fees, travelling and other allowances payable to members and staff of the board and to the town-planning adviser shall be borne by the local authority concerned.

(2) All such amounts shall in the first instance be paid out of moneys to be appropriated by the Provincial Council for the purpose but shall be recovered by the Administrator from the local authority concerned.

#### Evasion of intent or purpose of Ordinance.

†56. (1) If the Surveyor-General or Registrar of Deeds has reasonable grounds for believing that the layout or division or partition of any land is destined for any of the purposes mentioned in paragraph (d) of the definition of "township" in section *one*, as amended by section *one* of Ordinance No. 11 of 1933, or that any steps taken or arrangements made by an owner in dividing or partitioning or disposing of any land constitute or will constitute in effect an evasion of the intent or purpose of this Ordinance he shall forthwith refer the matter to the Board for investigation.

(2) The Board shall, after having completed the investigation, report to the Administrator and may recommend that the owner be requested to give his consent in writing to the incorporation of specified conditions in the deed of transfer; provided that if such land is situated within an area to which an approved scheme applies such conditions shall not be in conflict with any of the provisions of the scheme.

(3) (a) The Administrator shall thereupon determine whether such layout or division or partition is destined as aforesaid or whether such division or partition or disposal constitutes or will constitute in effect an evasion of the intent or purpose of this Ordinance and may before arriving at such decision ascertain from the owner whether he is prepared to give his consent, in writing, to the incorporation of specified conditions in the deed of transfer; provided that if such land is situated within an area to which an approved scheme applies such conditions shall not be in conflict with any of the provisions of the scheme. If the owner is prepared to do so such consent shall be obtained before the Administrator arrives at a decision.

(b) The Administrator's decision under paragraph (a) of this sub-section shall be communicated to the Surveyor-General and the Registrar of Deeds.

(4) Whenever a matter has, in terms of sub-section (1) of this section, been referred to the Board for investigation the Surveyor-General shall not approve any diagram of a sub-division of such land and the Registrar of Deeds shall not register the transfer or lease of any sub-division or other portion of such land unless—

(a) the Administrator determines that such layout or division or partition

\* As amended by section *five* of Ordinance No. 10 of 1938.

† As substituted by section *twenty-one* of Ordinance No. 20 of 1941 and amended by section *seven* of Ordinance No. 10 of 1943.

is not destined as aforesaid or that such division or partition or disposal does not constitute or will not constitute in effect an evasion of the intent or purpose of this Ordinance, or

(b) in the event of the Administrator having determined that such layout or division or partition is destined as aforesaid or that such division or partition or disposal constitutes or will constitute in effect an evasion of the intent or purpose of this Ordinance he subsequently reverses such division, or

(c) the Administrator advises the Surveyor-General and Registrar of Deeds that he is satisfied that the owner has complied with the provisions of this Ordinance.

(5) All expenses incurred by the Board in the carrying out of the powers and duties conferred upon it by this section shall be borne by the owner of the land.

#### Offences.

\*56*bis*. (1) Any person who contravenes or fails to comply with—

(a) any of the conditions set forth in the schedule to any proclamation issued in terms of sub-section (4) of section *twenty*, or

(b) any condition of title to which any erf in a township established after the coming into operation of this Ordinance is subject on the date on which such township is by proclamation in the *Gazette* declared an approved township in terms of sub-section (4) of section *twenty*, or

(c) any of the conditions set forth in the schedule to any proclamation issued in terms of section *twenty bis*, or

(d) any of the conditions, amended conditions or further conditions imposed under paragraph (a) of sub-section (4) of section *twenty-six*, or

(e) any amended condition of title imposed under section *twenty-nine*, or

(f) any of the conditions which are applicable to the owner or owners of any township established or proclaimed before the coming into operation of this Ordinance and which have been imposed under any prior law, or

(g) any of the conditions of title which are applicable in respect of any erf in any township established or proclaimed before the coming into operation of this Ordinance and which have been imposed under any prior law, shall be guilty of an offence and liable on conviction to the penalties prescribed by section *fifty-eight*.

(2) Every local authority shall observe and shall have the right to enforce the observance of the conditions set out in sub-section (1) of this section.

#### Local Authorities' Right to Institute Civil Proceeding.

†56*ter* Nothing in paragraph (b), (c) and (d) of sub-section (1) of section *forty-four*, paragraphs (b), (c) and (d) of sub-section (4) of section *forty-four* and sub-sections (2) and (3) of section *fifty-two* contained shall be construed as depriving any local authority of the right to institute such civil proceedings as it may be entitled to institute.

#### Sub-Division of Erven.

‡57. (1) (a) Subject to the provision of sub-sections (2) and (3) of this section, no sub-division of any erf in a township established before or after the coming into operation of this Ordinance shall be made unless the Administrator's consent has been obtained.

(b) An application for the sub-division of any such erf shall be referred to the Board. The Board shall, after having considered the application, forward its recommendations to the Administrator and may, if it recommends that such application be granted, suggest that specified conditions be imposed; provided that if such erf is situated in an area to which an approved scheme applies the Board shall not suggest any condition which is in conflict with the provisions of the scheme.

(c) The Administrator shall if he grants his consent have the right to impose such conditions as he may deem fit; provided that if the Board recommended that conditions be imposed the Administrator shall not modify any of those conditions or impose additional conditions without further reference to the Board; provided further that if the Board did not recommend that conditions be imposed the Administrator shall not impose any conditions without further reference to the Board; provided further that if the erf concerned is situated in an area to which an approved scheme applies the Administrator shall not impose any condition which is in conflict with the provisions of the scheme.

(2) The provisions of sub-section (1) of this section shall not apply to the sub-division, for any purpose other than creating a right of way or thoroughfare providing a new frontage or means of access to such sub-division, of any erf in a township established before or after the coming into operation of this

\* Added by section *twenty-two* of Ordinance No. 20 of 1941.

† Added by section *twenty-three* of Ordinance No. 20 of 1941.

‡ As substituted by section *twenty-four* of Ordinance No. 20 of 1941.

Ordinance if such township falls within the area of jurisdiction of a local authority which is empowered to exercise control over the sub-division of land in terms of sub-section (1) of section *fifty-two* or in terms of the provisions of an approved scheme.

(3) The Administrator or the local authority, as the case may be, shall not exercise the powers conferred by this section in a manner conflicting with any of the conditions referred to in paragraphs (a) to (g) (both paragraphs included) of sub-section (1) of section *fifty-six bis*.

*Section three of Ordinance No. 11 of 1933 provides:—*

**Powers of the Administrator in regard to Approval of Layout into Lots not Exceeding 15 in Number.**

3. Notwithstanding anything to the contrary in Chapter III of the principal law contained the Administrator may upon the recommendation of the board by notice in the *Gazette*—

(1) approve the layout or division of land (not being an erf in a township) in the vicinity of a township into portions not exceeding fifteen in number and impose such conditions as he may deem necessary; and

(2) if he is satisfied that there is reasonable cause and that the interests of other persons will not be prejudiced thereby dispense with such formalities and requirements prescribed by the said Chapter as he may determine. Any layout or division of land approved under this section shall be deemed to be an extension of such township.

**Penalty.**

\*58. Any person who contravenes any of the provisions of this Ordinance shall be guilty of an offence against this Ordinance and liable, on conviction, to a fine not exceeding fifty pounds and in default of payment to imprisonment with or without hard labour for a period not exceeding six months and in the case of a continuing offence to a fine not exceeding £5 per day for each day during which the offence continues.

**Regulations.**

†59. The Administrator may from time to time by publication of notice in the *Gazette* make, alter or amend regulations prescribing—

(1) the form of application for permission to establish a township, and the plans, diagrams, and information to be submitted with such application or with any application for permission to sub-divide land;

(2) the fees to be charged in respect of any act, matter, or thing required or permitted to be done under this Ordinance;

(3) the procedure to be adopted—

(a) with respect to the preparation of a scheme or any variation or enlargement of such scheme or its cancellation and the substitution of a new scheme in lieu thereof;

(b) with respect to the manner in which claims to compensation may be made and the investigation of such claims;

(c) with respect to the conduct and hearing of claims before a compensation court;

(d) with respect to any inquiries, reports, notices, objections, or other matters required or arising in connection with the preparation or adoption or approval of a scheme or preliminary thereto, or in relation to the carrying out of a scheme or enforcing the observance of the provisions thereof, and generally for the carrying out of the purpose and provisions of this Ordinance.

The regulations may prescribe a penalty for any contravention thereof or failure to comply therewith not exceeding fifty pounds and in the case of a continuing offence to a fine not exceeding five pounds for every day during which the offence continues.

**Matters Uncompleted.**

60. All matters uncompleted prior to the commencement of this Ordinance shall be completed as if this Ordinance had not been passed.

**Ordinance not to Apply in Certain Cases.**

‡61. Nothing in Chapter III of this Ordinance shall apply to—

(a) any piece of land, defined, set apart, or laid out by a local authority

\* As amended by section *six* of Ordinance No. 10 of 1938 and section *twenty-five* of Ordinance No. 20 of 1941.

† As amended by section *twenty-six* of Ordinance No. 20 of 1941.

‡ As amended by section *six* of Ordinance No. 11 of 1938 and section *twenty-six* of Ordinance No. 20 of 1941.

for native occupation in terms of section *one* of the Natives (Urban Areas) Act, 1923;

(b) the sub-division and sale of any pieces of land effected prior to the commencement of this Ordinance and of which transfer has not been registered, provided that such sub-division and sale were not in conflict with any law existing at the date of the sub-division and sale.

(c) any area of land laid out as agricultural holdings in terms of the Agricultural Holdings (Transvaal) Registration Act No. 22 of 1919 or any amendment thereof.

#### Repeal.

62. The laws mentioned in the third schedule to this Ordinance are repealed to the extent set out in the third column of that schedule, together with so much of any other law as may be repugnant to or inconsistent with the provisions of this Ordinance.

#### Short Title.

63. This Ordinance may be cited as the Townships and Town-planning Ordinance, 1931, and shall commence on a \*date to be fixed by the Administrator by proclamation in the *Gazette*, but such date shall not be earlier than the 1st day of January, 1932.

\* This date was 1st April, 1932. [See Proclamation (Administrator's) No. 136, dated 14th December, 1931.]

### FIRST SCHEDULE.

#### MATTERS TO BE CONSIDERED IN THE PREPARATION OF A TOWN-PLANNING SCHEME.

- (1) The necessity for providing good and efficient drainage of surface and sub-soil waters and sewage in the occupied portions of the area covered by the scheme and the disposal of such waters and sewage.
- (2) Making provision for future drainage of surface and sub-soil waters and sewage in the unoccupied portions of the area and the disposal of such waters and sewage to come into effect as and when development takes place in such unoccupied portions.
- (3) The provision where necessary of reserves for the purposes mentioned in (1) and (2).
- (4) Systems of lighting and water supply.
- (5) Streets with particular reference to—
  - (a) their grades, widths and intersections with other streets;
  - (b) the volume and character of the traffic which they may be expected to carry;
  - (c) whether they are destined or likely to be used principally for main or through traffic, secondary or local traffic, access to residences, or as boulevards, i.e., streets which, while serving the purpose of main or secondary streets may be of such a width that portions of the width may be dedicated to ornamental purposes;
  - (d) improving the communications or securing better facilities for any municipal or public purpose by—
    - (i) deviating, widening, reducing the width of or permanently closing any existing public places such as those mentioned in paragraphs (a), (b), (c) and (d) of section *sixty-two* of the Local Government Ordinance, 1926, or any amendment thereof; and
    - (ii) the creation of new streets;
  - (e) planting and conserving trees, shrubs or plants and the provision of other works calculated to improve the appearance of streets; and
  - (f) the advisability of providing a street on either side of any railway, tramway, river or watercourse traversing the area.
- (6) The size and dimensions of erven and the desirability or otherwise of altering existing erven with a view to improvement in the design or lay-out of any section of the area.
- (7) The regulation of buildings with particular reference to the maximum number which may be built upon each erf, the minimum outlay in cost of erection of buildings within prescribed areas, the maximum area of each erf which may be built upon, open spaces in and about buildings, the position of buildings on each erf in relation to any street or other buildings, and their character, height and harmony in design.
- (8) The reservation of land for afforestation purposes, recreation grounds, children's playgrounds, squares, parks, ornamental gardens or other open spaces, parking places and aerodromes, and the provision of adequate access thereto and for such other purposes as may be prescribed.
- (9) The preservation of objects or places of historical interest or natural beauty.
- (10) The zoning of areas to be used exclusively or mainly for specific purposes.
- (11) Areas to be used or regarded and treated exclusively as agricultural land as defined in section *four* of the Local Authorities Rating Ordinance, 1928, or any amendment thereof.
- (12) The reservation of sites for Government or public purposes.
- (13) The reservation of land for occupation by persons other than Europeans.
- \* (14) Any of the matters not already referred to which are mentioned in sub-section (2) (b) of section *forty-nine* of the Ordinance.
- \* (15) Any other matter reasonably incidental to the purposes of the Ordinance.

\* As amended by section *seven* of Ordinance No. 10 of 1938.

### SECOND SCHEDULE.

#### SECTION THIRTY.

#### MUNICIPALITIES TO WHICH THE PROVISIONS OF CHAPTER IV ARE APPLIED.

The Municipality of—

Benoni.

Boksburg.

Brakpan.

Germiston.

Johannesburg.

Krugersdorp.

Potchefstroom.

Pretoria.

Rodepoort—Maraisburg.

Springs.

Randfontein.

Klerksdorp.

Rustenburg.

Vereeniging.

## THIRD SCHEDULE.

## LAWS REPEALED.

No. and Year of Law.	Title or Subject of Law.	Extent of Repeal.
Ordinance No. 14 of 1904.. Act No. 33 of 1907.....	Town Lands Ordinance, 1904.... Townships Act, 1907.....	Section <i>seven</i> . The whole, except Sections <i>eleven</i> and <i>thirteen</i> .
Act No. 34 of 1908..... Ordinance No. 22 of 1925..	Townships Amendment Act, 1908 Townships Act Amendment Ordinance, 1925	Sections <i>two</i> , <i>six</i> , and <i>seven</i> . The whole.

**No. 12 of 1931.—Appropriation (1931-1932).**

**No. 13 of 1931.—Unauthorized Expenditure (1929-1930).**

**No. 14 of 1931.—Additional Appropriation (1931-1932).**

**No. 15 of 1931.—Roads Amendment.—Repealed by Ordinance No. 9 of 1933.**

**No. 16 of 1931.—Local Government Amendment.—Repealed by Ordinance No. 17 of 1939.**

**No. 17 of 1931.]**

[Assented to on the 31st August, 1931.]

## ORDINANCE

**To make provision for the registration of Motor Vehicles, the licensing of the owners of Motor Vehicles and Trailers, the licensing of Motor Vehicle Drivers, the regulation of public service motor vehicles and the licensing of the drivers thereof, the regulation of traffic in certain respects and in respect of other matters relating to the use of motor vehicles and other vehicles in the Province of Transvaal.**

(English text signed by the Governor-General.)

BE IT ENACTED by the Provincial Council of Transvaal as follows:—

## INTRODUCTORY.

## Definition.

\*†1. (1) In this Ordinance unless some other meaning is clearly intended—

“Administrator” means the officer appointed under sub-section (1) of section *sixty-eight* of the South Africa Act, 1909, or any amendment thereof, acting on the authority of the Executive Committee of the Province of Transvaal;

“bridge” includes a culvert and/or causeway;

“clearance certificate” means the certificate or token issued as prescribed to a licensee by a registering authority at the time when the motor vehicle or trailer, as the case may be, belonging to such licensee is being licensed under section *five*;

‡“commencement of this Ordinance” means the date on which this Ordinance came into operation‡;

“driver”, in relation to a motor vehicle, refers to the person having control of the steering apparatus thereof including, in relation to a motor cycle, the rider thereof and in respect of a trailer, refers to the person driving the motor vehicle by which the trailer is being drawn and “drive” has a corresponding interpretation;

“inspector of licences” means the official charged by a local authority or the Administrator as the case may be with the duty of inspecting licences and motor vehicles under this Ordinance;

“goods” includes goods, wares, water, sand, stone, and merchandise of all kinds including live stock;

“licence” means a licence granted in accordance with this Ordinance and in force; and “licensed” has a corresponding interpretation;

“local authority” means a city council, town council, village council or health committee constituted under the Local Government Ordinance, 1926 or any amendment thereof;

“Magistrate” means a Chief Magistrate, a Magistrate, or an Assistant Magistrate and when used in relation to any public road, residence, premises or area means the Magistrate of the District wherein such road, residence, premises or area is situate;

“motor vehicle” means any vehicle self-propelled by mechanical or electrical power and adapted or intended to be employed for the purpose of conveying persons or goods and any tractor similarly propelled and any other vehicle of a class prescribed by regulation to be motor vehicles, but does not include—

(a) a vehicle running on rails, or a vehicle which though not running on rails is adapted for use upon roads without rails and derives motive power

\* As amended by Ordinances Nos. 19 of 1933, 16 of 1938, and 4 of 1939.

† As amended by section *one* of Ordinance No. 23 of 1940.

‡ 1st January, 1932—Proclamation No. 104 (Administrator's), 1931, dated 11th September, 1931.

from an overhead wire, or is moved by power transmitted thereto from some external source, if such vehicle is the property of a local authority or is run under statutory authority;

(b) a steam, electrical or motor roller;

(c) a fire engine;

(d) a vehicle propelled by mechanical power and specially designed and constructed (and not merely adapted) for the use of persons suffering from some physical defect or disability and used solely by such persons;

and such other vehicles as the Administrator may from time to time by Proclamation in the Provincial Gazette† declare shall not be motor vehicles for the purposes of this Ordinance.

“ motor car ” means a motor vehicle (other than a motor cycle) designed solely or principally for the carriage of persons not exceeding seven in number;

“ motor cycle ” means a motor vehicle with or without a side-car or similar attachment;

“ motor omnibus ” means a motor vehicle designed solely or principally for the carriage of persons exceeding seven in number;

“ municipality ” means the area or district placed under a local authority;

“ to operate ” means to use or drive, or cause or permit to be used or driven, or permit to be, on any public road whether the person operating is present in person or not;

“ outside territory ” means any other Province of the Union, the mandated territory of South West Africa, Northern and Southern Rhodesia, the Bechuanaland Protectorate, Swaziland and Basutoland and such other territory as the Administrator may from time to time by proclamation in the *Provincial Gazette* declare to be an outside territory for the purposes of this Ordinance;

“ owner ”, in relation to a motor vehicle or trailer, includes subject to the provisions of sub-section (2) of this section the owner, joint owner or part owner of a motor vehicle or trailer and any person who has the lawful use of such vehicle;

“ parking ” means the standing or waiting in any public place of any vehicle not actually engaged in taking up or setting down passengers or merchandise;

“ parking place ” means a place where vehicles or vehicles of any particular class or description may wait;

“ passenger ” does not include driver or conductor;

“ police officer ” means a member of a police force established by law or of any body of persons carrying out under any law the powers, duties and functions of a police force in the Union;

“ pneumatic tyre ” means a tyre composed of flexible material and when in use kept inflated at an air pressure greater than atmospheric pressure;

“ prescribed ” means prescribed by or under this Ordinance or any by-law or regulation;

“ provisional licence ” means a licence issued under section *twenty-two* to any person learning to drive a motor vehicle;

“ public road ” means—

(a) any road established, proclaimed or recognized as such under the provisions of any law and includes bridges over which such road passes; and

(b) any road or thoroughfare, however created which, before or after the commencement of this Ordinance, has been in the undisturbed use of the public or which the public has had the right to use during a period of not less than three years and includes bridges over which such road passes; and includes—

(c) any street or thoroughfare and any other public place whatever open to the use of the public for purposes of vehicular traffic

provided that in any prosecution under this Ordinance the road on which the offence is alleged to have occurred shall be presumed to be a public road unless and until the contrary is proved;

“ registering authority ” means such local authority, magistrate, receiver of revenue or other person as may be appointed by the Administrator with jurisdiction for the purposes of this Ordinance in the area in which the owner of a motor vehicle resides;

“ regulation ” means a regulation made and in force under this Ordinance;

“ street ” includes any street, road or thoroughfare shown on the general plan of a township or in respect of which the public have within a municipality acquired a prescriptive or other right of way;

“ trailer ” means a vehicle without motive power designed solely or principally for carrying persons or goods wholly on its own structure and

† See Proclamations Nos. 129 (Administrator's), 1931, dated 4th November, 1931, and 100 (Administrator's), 1932, dated 27th October, 1932 (page 2).



adapted for being drawn by a motor vehicle, provided that a side-car attached to a motor-cycle shall be regarded as forming part of such motor-cycle to which it is attached and not as being a trailer.

(2) Notwithstanding anything to the contrary in this Ordinance contained "owner" shall, for the purposes of sections *two, three, four and sixteen*, mean any person who has the dominium of a motor vehicle or trailer and shall include any joint owner or part owner of a motor vehicle or trailer, any person having the right to the use of a motor vehicle or trailer under a hire purchase or suspensive sale agreement, any person to whom a motor vehicle or trailer has been hired or lent for any period in excess of two months, and any person to whom a motor vehicle or trailer has been pledged, and "ownership" shall for the purposes of the said sections *two, three, four and sixteen* have a corresponding meaning.

## CHAPTER I.

### REGISTRATION OF MOTOR VEHICLES AND LICENSING OF MOTOR VEHICLES AND TRAILERS.

#### Registration of Motor Vehicles.

\*2. (1) (a) The owner of every motor vehicle shall within the period prescribed by paragraph (b) hereof register the same at the office of the registering authority within whose area of jurisdiction he resides and upon such registration the registering authority shall issue to him a certificate of registration.

(b) The period within which such registration shall be effected shall be seven days after—

(i) the owner has acquired ownership of a motor vehicle;

(ii) the date on which an exemption under sub-section (1), (2) or (3) of section *twenty-five* from registering and licensing a motor vehicle has lapsed or on which a certificate of registration and licence issued in terms of section *twenty-five ter* have lapsed;

(iii) the date on which any motor vehicle which is not exempt from being registered or licensed in the Transvaal is brought into the Province of Transvaal;

(iv) a motor vehicle, in respect of which the registration was cancelled in terms of section *seven* (2), has been reconstructed and put into use;

(v) any such other circumstances as may be prescribed.

(c) Whenever a new registering authority has been appointed under this Ordinance for any area which before such appointment formed the area of another registering authority or whenever any portion of the area of an existing registering authority is exercised and included within the area of jurisdiction of another registering authority, every owner of a registered motor vehicle residing in the area of the new registering authority or in the area exercised and included as aforesaid in the area of jurisdiction of such other registering authority shall register the same at the office of such new registering or other authority afresh within fourteen days from the date of such appointment or excision, and shall if so required, produce his previous registration certificate and his current licence, if any, to the registering authority. The registering authority shall then free of charge endorse on such licence the new registration number and distinctive marks of the motor vehicle to which it relates.

(2) In registering a motor vehicle the registering authority shall cause a number to be assigned to such motor vehicle and the owner thereof shall cause to be affixed or painted and shall keep affixed or painted the number so assigned in such position upon the motor vehicle as may be prescribed. The same number shall not be assigned by the registering authority in its registers to more than one motor vehicle.

(3) The Administrator shall assign to each registering authority a letter or letters or combination of letters or other mark as the distinctive mark under this Ordinance of that authority; and the owner of every motor vehicle registered under this Ordinance shall cause to be affixed or painted and shall keep affixed or painted the distinctive mark of the registering authority concerned in such position upon the motor vehicle as may be prescribed.

(4) (a) Every application for the registration of a motor vehicle under this Ordinance shall wherever a fee is payable therefor be accompanied by the appropriate registration fee.

(b) The fee payable for registration shall except in the case of any motor vehicle within the exemptions defined in Part III of the First Schedule to this Ordinance be as prescribed in Part I of such Schedule.

(c) If any motor vehicle be not registered within the period prescribed by paragraph (b) of sub-section (1) of this section the fee, if any, payable for registration, shall be increased by five per cent. for every month or part of a month during which the default continues, provided that as from the commence-

\* As amended by Ordinances Nos. 4 of 1939, 22 of 1940, and 18 of 1941.

ment of this Ordinance the amount of any increased fee thus imposed shall not exceed the amount of the fee payable for registration.

(5) Any person who fails to register a motor vehicle within the prescribed time and to pay the prescribed fee therefor shall be guilty of an offence against this Ordinance.

(6) The owner of every motor vehicle so registered shall obtain from the registering authority a certificate of registration which shall not require renewal.

(7) For the purposes of this section and sections *seven, eight, nine and thirteen*, the words "motor vehicle" shall include a trailer.

(8) Whenever the prescribed registration fee is paid by any person by virtue of an order made under paragraph (b) of sub-section (2) of section *sixteen* any person falling under the definition of "owner" in sub-section (2) of section *one*, and who was liable for the payment of such registration fee, shall be relieved from payment thereof.

#### LICENCES.

##### Licences to be Obtained for Motor Vehicles and Trailers. Liability of Owners.

\*3. (1) Subject to the provisions of sub-section (3) of this section any person who is the owner of a motor vehicle or trailer on the first day of January of any year shall be liable, from such first day of January, to the registering authority within whose area of jurisdiction he is resident on such first day of January, for the full amount of the annual licensing fee prescribed by sub-section (2) of section *four*, and shall obtain a licence from such registering authority, in the prescribed form, in respect of the ownership of such motor vehicle or trailer, for the period ending the next succeeding thirty-first day of December, not later than the thirty-first day of January immediately following the date on which such liability arose.

(2) Subject to the provisions of sub-section (3) of this section any owner of a motor vehicle or trailer in whose case the period prescribed by paragraph (b) of sub-section (1) of section *two* commences to run from a date during the period 2nd January to the 31st December of any year (both days included) shall be liable, from the date from which the period prescribed by the said paragraph (b) commences to run, to the registering authority within whose area of jurisdiction he is resident on the date on which such liability arose, for the full amount of the annual licensing fee prescribed by sub-section (2) of section *four* less, for every complete month between the date on which such liability arose and the first day of January immediately preceding that date, one-twelfth part of such annual licensing fee, and shall obtain a licence from such registering authority, in the prescribed form, in respect of the ownership of such motor vehicle or trailer, within seven days of the date on which such liability arose, for the period ending the next succeeding thirty-first day of December: Provided that this sub-section shall not apply in a case where the motor vehicle or trailer in question has already been licensed in the prescribed manner for the period ending such next succeeding thirty-first day of December.

(3) (a) Whenever the full amount of the annual licensing fee prescribed by sub-sections (2) and (3) of section *four* has been paid for the period ending the next succeeding 31st day of December by any person falling under the definition of "owner" in sub-section (2) of section *one* or by any person against whom an order has been made under paragraph (b) of sub-section (2) of section *sixteen* no other person who may fall under the said definition shall be liable for payment of such annual licensing fee for the period ending such next succeeding 31st day of December.

(b) Whenever the prescribed licence for the period ending the next succeeding 31st day of December has been obtained by any person falling under the definition of "owner" in sub-section (2) of section *one* no other person who may fall under the said definition shall be required to obtain such licence for such period.

##### Licences, Penalties and Exemptions.

†4. (1) Every application for a licence in respect of the ownership of a motor vehicle or trailer shall be made in the prescribed form.

(2) Except in respect of motor vehicles and trailers falling within the exemptions provided in Part III of the First Schedule to this Ordinance the owner of a motor vehicle or trailer shall, subject to the provisions of section *three*, on making application for a licence in respect of the ownership of such motor vehicle or trailer pay the appropriate licence fee prescribed in Part II of that Schedule.

(3) If the owner of a motor vehicle or trailer fails to obtain a licence in respect of the ownership of such motor vehicle or trailer within the period allowed by section *three*, the licence fee shall, except as is provided in sub-section (9) of this section, be increased by way of penalty by 10 per cent. for

\* As substituted by section *two* of Ordinance No. 22 of 1940 and amended by section *three* of Ordinance No. 23 of 1940.

† As substituted by section *four* of Ordinance No. 3 of 1943, and see also section *two* of that Ordinance which provides for a temporary reduction of licences.

every month or part of a month during which the default continues calculated from and including the day immediately following the expiration of such period up to a maximum of 100 per cent., provided that if the licence of a motor vehicle or trailer other than a public service motor omnibus as defined in paragraph (e) of sub-section (4) of section *five* expired on the 31st day of December and is renewed before the next succeeding 4th day of March, the licence fee shall not be so increased.

(4) The payment by the owner of a motor vehicle or trailer of the licence fee and penalties due by him in terms of this section shall not in any way relieve him from any liability to prosecution under section *sixteen*.

(5) (a) If the owner of any motor vehicle or trailer does not renew his licence in respect of the ownership thereof for any year by the 30th day of June of that year—

(i) he shall not later than the 7th day of July of that year pay the amount prescribed by item (4) of Part I of the First Schedule to this Ordinance, the provisions of this sub-paragraph to apply in respect of each year for which such owner remains in default as aforesaid;

(ii) the registration of such motor vehicle or trailer shall be *ipso facto* cancelled on such 30th day of June;

(iii) he shall submit together with any amount aforesaid an application form, duly completed, for the re-registration of the motor vehicle or trailer.

(b) The payment of any amount under sub-paragraph (i) of paragraph (a) of this sub-section shall not in any way relieve any such owner from his liability, if any, under sub-sections (2) and (3) of this section.

(c) The provisions of paragraph (a) of this sub-section shall not apply in respect of any motor vehicle or trailer—

(i) which is licensed under section *twenty-five ter*; or

(ii) in respect of which an exemption, granted in terms of sub-section (6) of this section, is current.

(d) Any person who contravenes or fails to comply with any of the provisions of this sub-section shall be guilty of an offence and liable, on conviction, to the penalties prescribed by section *thirty-six*.

(6) If the registering authority is satisfied that at the time when the owner of a motor vehicle or trailer would ordinarily become liable to take out a licence in respect of the ownership of such motor vehicle or trailer it is in such a damaged or worn-out condition as to be incapable of being put to use or has been so dismantled as to render it temporarily incapable of use or has been left for sale with a dealer in motor vehicles and is only operated by the detaler in a lawful manner, or has been temporarily removed from the Union of South Africa, such registering authority may upon payment of a fee of 2s. 6d. in the case of a motor cycle and 5s. in the case of any other motor vehicle or any trailer, issue a certificate in the prescribed form exempting him from taking out a licence for a stated period not extending beyond the next succeeding 31st day of December, pending the repair, re-instatement, total destruction, sale or return to the Union of such motor vehicle or trailer. The registering authority may from time to time if it is satisfied as aforesaid, renew any certificate of exemption, provided that—

(a) no certificate of exemption shall be renewed to a date extending beyond the 31st day of December immediately following the date of commencement of the exemption;

(b) the aforesaid fee shall be paid on each occasion on which the exemption is renewed.

The provisions of this sub-section may be invoked in respect of the licence for any subsequent year or years.

(7) During the pendency of a *bona fide* application for an exemption or a renewal thereof the owner shall be protected from proceedings for default; provided that the decision of the registering authority be not delayed through the owner's fault.

(8) Any exemption granted in terms of sub-section (6) of this section, shall cease—

(a) at the expiration of the term of the certificate and any renewal thereof; or

(b) upon the motor vehicle or trailer being repaired or re-instated sufficiently for use, or sold or returned to the Union; or

(c) upon the motor vehicle or trailer being broken up, destroyed or becoming permanently useless as a motor vehicle or trailer, or being removed permanently from the Province of Transvaal,

whichever be the earlier date.

(9) The licence fee shall be reduced by one-twelfth part thereof for every complete month of the period of exemption calculated from the date of commencement of the exemption, up to the date on which the exemption has ceased. The provisions of sub-section (3) of this section shall not apply to

such period, but shall subject to the provisions of section *seven* again apply from the date on which the exemption has ceased.

(10) (a) If a motor vehicle or trailer in respect of which an exemption is current is repaired or re-instated sufficiently for use, or sold, or returned to the Union, the holder of the certificate of exemption shall forthwith advise the registering authority which issued the certificate.

(b) Any person who contravenes or fails to comply with the provisions of paragraph (a) of this sub-section shall be guilty of an offence and liable on conviction to a fine not exceeding £50, and in default of payment, to imprisonment with or without hard labour for a period not exceeding six months.

#### Issue of Licences.

\*5. (1) A licence in the prescribed form in respect of the ownership of a motor vehicle or trailer, and a clearance certificate shall only be issued—

(a) on receipt of the prescribed application form duly completed together with the prescribed licence fee (if any) plus penalties (if any) prescribed by sub-section (3) of section *four*, plus the amount or amounts (if any) referred to in sub-paragraph (i) of paragraph (a) of sub-section (5) of section *four*; and

(b) on production of the certificate of registration of such motor vehicle or trailer, or if paragraph (a) of sub-section (5) of section *four* applies, the re-registration certificate; and

(c) in the event of the provisions of section *thirteen bis* being applicable if such motor vehicle or trailer has been found fit for use on a public road by a competent person appointed by the registering authority in terms of that section; and

(d) if the provisions of sub-section (4) of this section (where applicable) have been complied with.

(2) Where any motor vehicle in respect of which any such licence as aforesaid has been issued is altered after the licence has been issued in such manner as to cause the motor vehicle to become a motor vehicle in respect of which a higher rate of fee is prescribed the licence shall become void and the motor vehicle shall be deemed to be unlicensed but the holder of the licence shall on surrendering the same to the registering authority and furnishing the prescribed particulars be entitled to receive a new licence in respect of the motor vehicle, to have effect for the period for which the surrendered licence would, if it had not become void, have remained in force on payment [subject to reduction, if any, in accordance with the first proviso to sub-section (2) of section *four*] of such amount, if any, as represents the difference between the amount payable on the new licence and the amount paid on the surrendered licence.

(3) Every licence in respect of a motor vehicle shall refer to the assigned registration number and distinctive mark of the motor vehicle to which it relates.

(4) (a) From and after a date to be fixed by the Administrator by Proclamation in the *Provincial Gazette* no such licence shall be issued in respect of the ownership of a public service motor omnibus and no licence for such a vehicle being a public vehicle (as defined in section *two* of the Local Government Ordinance, 1926, or any amendment thereof) shall be issued by a local authority under any by-laws in force within its own area of jurisdiction unless the applicant therefor submits a statement in the prescribed form and issued by the registering authority showing that the applicant has in accordance with the \*regulations (which the Administrator is hereby authorized to make), given security or a guarantee furnished in a manner and by a person or institution of a class likewise prescribed by regulation to make good any loss or damage which any person may sustain in connection with such public service motor omnibus from any cause defined by regulation, during the period commencing on the date of issue of such licence and ending on the next succeeding thirty-first day of December; provided that any such or similar security or guarantee prescribed by any other law, by virtue whereof any person may recover compensation for any loss or damage sustained by him in connection with any such vehicle, shall, for the purposes of this section, be regarded as a security or guarantee complying with the requirements of the preceding provisions of this sub-section.

(b) Any such licence issued in contravention of paragraph (a) of this sub-section shall be void and any person operating any public service motor omnibus in respect whereof no security or guarantee provided for in paragraph (a) of this sub-section is in force shall be guilty of an offence against this Ordinance.

(c) Whenever any person operating any public service motor omnibus is charged under sub-section (b) hereof the security or guarantee provided for in paragraph (a) of this sub-section shall be presumed not to have been given in respect of such vehicle unless the contrary is proved.

\* As amended by Ordinances Nos. 19 of 1933, 16 of 1938, 22 of 1940, 23 of 1940, 12 of 1942, and 3 of 1943.

(d) Notwithstanding anything in any law contained a person issuing a policy of insurance under this section shall be liable to indemnify the persons or classes of persons specified in the policy in respect of any liability which the policy purports to cover in the case of those persons or classes of persons.

(e) For the purpose of this sub-section the expression "public service motor omnibus" means a motor vehicle used for the conveyance of any persons on public roads for reward but does not include any motor vehicle belonging to the Government of the Union of South Africa or to the Provincial Administration or any motor vehicle used exclusively for the conveyance of children to and from any public school, or used exclusively, with the Provincial Secretary's consent, for the conveyance to and from any other place of school children for cultural or educational purposes or purposes of recreation.

#### Registers to be Kept.

6. Every registering authority shall keep at its office such registers as may be prescribed.

#### CANCELLATION OF REGISTRATION.

\*7. (1) If any registered motor vehicle is broken up, destroyed or becomes permanently useless as a motor vehicle or is removed permanently from the Province of Transvaal, the owner of the motor vehicle shall forthwith give to the registering authority at whose office the motor vehicle is registered notice of its breaking up, destruction, condition or removal, as the case may be, and shall deliver to such registering authority the certificate of registration of the motor vehicle and the then current annual licence, if any, and clearance certificate in respect thereof. This sub-section shall not apply to any dismantling or temporary destruction or temporary removal from the Union of South Africa of motor vehicles in respect of which certificates of exemption are granted under sub-section (4) of section four.

(2) The registering authority shall thereupon cancel the registration of the motor vehicle and the annual licence and clearance certificate in respect thereof, provided that where an owner of a motor vehicle changes his place of residence permanently from this Province to any outside territory the said documents shall not be cancelled but such owner shall forthwith notify the registering authority in writing of such change of residence and the registering authority shall note the fact of such change of residence in its register of motor vehicles and shall cancel the registration in the said register only at the expiry of the licence issued to such owner and provided further that the licence and clearance certificate shall not be cancelled where these documents are to be transferred in terms of sub-section (1) of section twelve.

(3) Whenever a fresh registration of motor vehicles takes place in the circumstances described in section two (1) (c) or in section eight the registering authority at whose office such registration has been effected shall within fourteen days thereafter furnish every other registering authority concerned with such particulars as may be prescribed of the motor vehicles so registered afresh and in respect of which registration was originally made at the office of such other registering authority. Such other registering authority shall upon receipt of the said particulars cancel the registration of every motor vehicle in respect of which such fresh registration has been effected.

(4) (a) The registering authority may, after due inquiry, cancel the registration of any motor vehicle—

(i) which the registering authority shall determine is unsafe or unfit to be operated or is not properly equipped as required by this Ordinance or the regulations made thereunder; or

(ii) whenever the person in whose name the said vehicle is registered shall make or permit to be made any unlawful use of any certificate or licence issued to such person in respect of that vehicle or permit the use of any such document by any person not entitled thereto.

Any person who, being the holder of a certificate of registration, is aggrieved at the cancellation thereof under this paragraph may, within a period of twenty-one days of such cancellation, appeal against the decision of the registering authority to the Administrator, whose decision in the matter shall be final. If such decision is in favour of the appellant the registering authority shall forthwith, without any charge, register the said vehicle afresh and issue to the appellant a new certificate of registration.

(b) The registration of a motor vehicle may be cancelled in such other circumstances as may be prescribed.

(5) When the registration of a motor vehicle is cancelled the registering authority may assign to any other motor vehicle thereafter registered at its office the number and distinctive marks previously assigned to the motor vehicle the registration whereof has been cancelled.

(6) An owner who fails to comply with the provisions of sub-section (1) of this section shall be guilty of an offence against this Ordinance.

\* As amended by Ordinances Nos. 19 of 1933 and 16 of 1938.

## CHANGE OF RESIDENCE OF OWNER.

**Transfer of Registration from one area to another.**

8. (1) If any owner of a motor vehicle permanently changes his residence from the area of one registering authority to the area of another registering authority he shall within fourteen days give notice of such change to the registering authority at whose office the motor vehicle is registered.

(2) The registration of the motor vehicle shall thereupon be removed to the office of the registering authority to whose area of jurisdiction the said owner has so changed his residence and the number and distinctive marks affixed or painted shall be altered by the owner in such manner and by such means as may be prescribed, and a fresh registration certificate and a clearance certificate shall be issued in respect of which no fee shall be payable. Upon the issue of such certificates the said registering authority shall cancel the old clearance certificate and return the same to the registering authority by whom it was issued.

(3) An owner who fails to comply with any of the provisions of this section shall be guilty of an offence against this Ordinance.

## CHANGE OF OWNERSHIP.

**Transfer of Certificate of Registration and Licence on Change of Ownership.**

9. (1) Within seven days after the sale or other disposal of any registered motor vehicle, the person selling or otherwise disposing of the same shall, in the prescribed form, notify the registering authority at whose office the motor vehicle is then registered of the fact of such disposal, the name and address of the new owner, and such other particulars as may be prescribed and shall hand to the new owner the certificate of registration of the motor vehicle and the then current annual licence and clearance certificate in respect thereof. If the new owner resides within the area of another registering authority the registering authority at whose office the motor vehicle is registered shall notify such other registering authority and a temporary certificate of change of ownership shall be issued to the new owner free of charge by the registering authority. Such certificate shall have the same force as a registration certificate and licence for a period of fourteen days from the date of issue or until action has been taken in terms of sub-section (2) of this section, whichever be the shorter period.

\* (2) The registering authority of the area in which the new owner resides shall upon receipt of such notification and upon submission to him by the new owner of the said documents and upon payment of the fee prescribed by sub-section (4) (b) of section *two* and a fee of five shillings issue a certificate in the prescribed form of the change of ownership. The number and date of such certificate shall be endorsed upon the registration certificate and upon the licence and a new clearance certificate shall be issued in respect thereof. The licence shall then continue in force subject to the provisions of this Ordinance until the date of the expiry thereof.

(3) Any person who fails to comply with any of the provisions of this section shall be guilty of an offence against this Ordinance.

## GENERAL.

**Duplicate Certificates or Licences.**

†10. (1) Whenever it shall appear to the satisfaction of the registering authority that a certificate or licence issued by such registering authority to any person under this Chapter or under Chapter II or section *thirty-nine* has been lost, destroyed or accidentally defaced or the figures and particulars thereon have become illegible such authority shall on payment of a fee of two shillings and sixpence issue a duplicate of such certificate or licence with the word "duplicate" written thereover and the duplicate so issued shall have the same effect as the original certificate or licence.

(2) If at any time after the issue of a duplicate of any lost certificate or licence the original certificate or licence shall be found the person to whom such duplicate was issued shall take all reasonable steps to obtain possession of such original and shall return it to the registering authority who granted or issued the duplicate thereof.

**Licensing of Motor Vehicles Licensed or Brought from Elsewhere which are Habitually used in this Province.**

11. (1) In any case where a public service motor vehicle (as defined in section *thirty-seven*) of any owner is licensed in or is brought into this Province from an outside territory or elsewhere, and, in the opinion of the Administrator, is being habitually used on public roads in this Province the Administrator may, anything to the contrary in this Ordinance notwith-

\* As amended by Ordinance No. 16 of 1938.

† As amended by Ordinance No. 22 of 1940.

standing, require such owner by written notice to register and take out a licence in respect of his motor vehicle and to pay the prescribed fees therefor at the prescribed rates and within such period and to such registering authority as may be specified in the said notice. Such notice may be served on the owner personally or by registered post or may be delivered to the person in charge of such motor vehicle.

(2) If any such owner fails to register and take out a licence as required within the period prescribed in such notice the fees for registration and licensing shall be increased by ten per cent. for any month or part of a month during which the default continues and he shall be guilty of an offence.

(3) Any person who within the Province of Transvaal drives a public service motor vehicle in regard to which the notice referred to in sub-section (1) of this section has been served while such vehicle has not been registered and licensed as required therein, shall be guilty of an offence against this Ordinance.

#### **Transfer of Licence to New Vehicle in certain Circumstances and Refund of Portion of Licence Fee.**

\*12. (1) Where any motor vehicle or trailer is totally destroyed the licence in respect of such motor vehicle or trailer shall, on the application of the owner of such vehicle, be endorsed by the registering authority in favour of such owner in respect of another motor vehicle (duly registered in terms of section two hereof) or trailer the property of such owner upon payment of any additional licence fee payable owing to the fact that the other motor vehicle exceeds in weight the one destroyed, or that in respect of the other trailer a higher rate of fee is prescribed than for the one destroyed.

(2) If the Administrator is satisfied that any motor vehicle or trailer has been destroyed or become permanently unfit for use as a motor vehicle or trailer he shall on application made for the purpose authorize a refund to the owner of the motor vehicle or trailer a part of the licence fee paid in respect thereof proportionate to the number of complete calendar months for which the licence had still to run, provided that no such refund shall be made in the case of a motor vehicle unless the applicant has first complied with the provisions of sub-section (1) of section seven and has submitted his application for a refund within a period of three months from the date on which the said vehicle or trailer was destroyed or became permanently unfit.

The expression "the licence fee" as used in this sub-section means the fee paid under sub-section (2) of section four but does not include the increased licence fee referred to in sub-section (3) of the said section.

(3)—*Repealed by Ordinance No. 19 of 1933, with effect from 1st April, 1934*

#### **Furnishing of Evidence as to Weight of Motor Vehicle and False Information.**

†13. (1) Any owner of a motor vehicle shall, if so required by a registering authority furnish such evidence as may be reasonably available to or obtainable by him in regard to the weight of a motor vehicle when such vehicle is being registered or when a licence is being taken out in respect of the ownership thereof in terms of this Ordinance.

(2) The Administrator may require any dealer in motor vehicles to furnish a sworn declaration specifying the weight of any motor vehicle sold by him. Any such dealer who fails to comply with the Administrator's requirements in terms of this sub-section, shall be guilty of an offence against this Ordinance. The expression "weight" as used in this and in the preceding sub-section has the same meaning as that given to the expression in Part II of the First Schedule to this Ordinance.

(3) Any applicant for a registration certificate or for a licence or for a duplicate of such certificate or licence or any other person required in terms of the provisions of this Chapter to give any information who shall wilfully give false, misleading or inaccurate information shall be guilty of an offence against this Ordinance.

#### **Examination of Second-hand Motor Vehicles and Trailers when Acquired by Owners.**

‡13bis. (1) Subject to the provisions of sub-section (4) every person who desires to dispose of any second-hand motor vehicle or trailer by way of sale, hire purchase agreement, sale under suspensive conditions, barter or gift or in any other manner to any person other than a dealer in motor vehicles, shall immediately before such disposal produce such motor vehicle or trailer to the registering authority within whose area of jurisdiction he is then resident, and such registering authority shall forthwith cause it to be examined, at the expense of such person, by a competent person appointed by such

\* As amended by Ordinances Nos. 19 of 1933 and 16 of 1938. (See also section three of Ordinance No. 3 of 1943, providing for refunds in cases where owners find it impossible to obtain petrol, tyres, etc.)

† As amended by Ordinance No. 19 of 1933.

‡ Added by Ordinance No. 12 of 1942.

registering authority, with the object of determining whether such motor vehicle or trailer is fit for use on a public road or not.

(2) The registering authority shall obtain a certificate from the person appointed under sub-section (1) stating—

(a) that such motor vehicle or trailer has been properly examined by him, and

(b) whether such motor vehicle or trailer is, in his opinion, fit for use on a public road or not.

(3) Subject to the provisions of sub-section (4) any person who disposes of a second-hand motor vehicle or trailer by way of sale, hire purchase agreement, sale under suspensive conditions, barter or gift or in any other manner before a competent person appointed by the registering authority referred to in sub-section (1) has found it fit for use on a public road shall be guilty of an offence and liable, on conviction, to a fine not exceeding twenty-five pounds and in default of payment to imprisonment with or without hard labour, for a period not exceeding two months.

(4) The provisions of sub-sections (1) and (3) shall not apply to any department of the Union Government.

(5) (a) Any person who acquires a second-hand motor vehicle or trailer by way of sale, hire purchase agreement, sale under suspensive conditions, barter or gift or in any other manner from any department of the Union Government, shall produce such motor vehicle or trailer to the registering authority within whose area of jurisdiction he was resident on the date of acquisition and such registering authority shall forthwith cause it to be examined at the expense of such person by a competent person appointed by such registering authority, with the object of determining whether such motor vehicle or trailer is fit for use on a public road or not.

(b) Any person who acquires a second-hand motor vehicle or trailer by way of sale, hire purchase agreement, sale under suspensive conditions, barter or gift or in any other manner from any department of the Union Government and who uses such motor vehicle or trailer upon a public road before a competent person appointed by a registering authority in terms of this section has found it fit for use on a public road shall be guilty of an offence and liable on conviction to the penalties prescribed in sub-section (3) of this section; provided that such motor vehicle or trailer may be used between the place of sale, the place of examination and the place of repair for purposes of examination and repair.

#### **Examination of Motor Vehicles and Trailers.**

\*13<sup>ter</sup>. (1) (a) Whenever any police officer, inspector of licences or other person authorised by the Provincial Secretary is of opinion that a motor vehicle or trailer is unfit for use on a public road he may by notice in writing direct the owner or driver of such motor vehicle or trailer to present it at a place specified in such notice and provided by a registering authority likewise specified within a time specified in the notice for examination by a competent person appointed by such registering authority with the object of determining whether the motor vehicle or trailer is fit for use on a public road or not.

(b) Any person who fails to comply with any requirement of a direction issued in terms of paragraph (a) of this sub-section shall be guilty of an offence and liable on conviction, to a fine not exceeding £50 and in default of payment to imprisonment, with or without hard labour, for a period not exceeding six months.

(2) (a) If the person appointed by the registering authority specified in a direction issued in terms of paragraph (a) of sub-section (1) of this section, certifies that in his opinion the motor vehicle or trailer is unfit for use on a public road it shall be the duty of the owner of the motor vehicle or trailer forthwith to take steps to have it made roadworthy. If such owner fails to obtain a certificate within fourteen days of the date on which the said direction was issued from a person appointed by the said registering authority to the effect that the motor vehicle or trailer has been rendered fit for use on a public road such owner shall on the expiration of the said period of fourteen days forthwith deliver to the registering authority at whose office the motor vehicle or trailer is registered the certificate of registration of the motor vehicle or trailer and the then current annual licence, if any, and clearance certificate which papers shall only be returned to such owner if and when he produces the aforesaid certificate of roadworthiness.

(b) Any person who contravenes or fails to comply with the provisions of paragraph (a) of this sub-section shall be guilty of an offence and liable, on conviction, to the penalties prescribed by section *thirty-six*.

(3) (a) After a person appointed by the registering authority specified in a direction issued under paragraph (a) of sub-section (1) of this section has

\* Added by Ordinance No. 12 of 1942.



certified that the motor vehicle or trailer is unfit for use on a public road no person shall use such motor vehicle or trailer upon a public road unless and until a certificate is subsequently obtained from a person appointed by such registering authority to the effect that the motor vehicle or trailer has been rendered fit for use on a public road; provided that such motor vehicle or trailer may be used between the place of examination and the place of repair for purposes of repair and examination.

(b) Any person who contravenes the provisions of paragraph (a) of this sub-section shall be guilty of an offence and liable, on conviction, to a fine not exceeding £50 and in default of payment to imprisonment, with or without hard labour, for a period not exceeding six months.

**Powers of certain Officers to Examine Motor Vehicles and Trailers and Enter Premises.**

14. (1) Any police officer or inspector of licences may—

(a) examine or stop and examine any motor vehicle or trailer and the machinery thereof for the purpose of ascertaining whether that motor vehicle or trailer is the vehicle referred to in any licence which has been issued under this Ordinance and for any other purposes of this Ordinance;

(b) enter any premises at any reasonable time for the purpose of making such an examination;

provided that such police officer or inspector shall not stop any such vehicle unless he is in uniform or is wearing some conspicuous badge or token of his office, and provided further that, if not in uniform or not wearing such badge or token such police officer or inspector shall, if so required by the person in charge of the vehicle, produce documentary evidence of his authority to act as a police officer or inspector.

(2) If any person—

(a) in any way obstructs or interferes with any such officer or inspector in the exercise of any of the powers conferred on him by this section or prevents him from exercising any of those powers; or

(b) fails to comply with any reasonable requirements or directions given by such officer or inspector for the purpose of the exercise of the said powers;

he shall be guilty of an offence against this Ordinance and shall be liable to a fine not exceeding twenty pounds.

**SPECIAL PROVISIONS APPLICABLE TO MANUFACTURERS AND REPAIRERS OF AND DEALERS IN MOTOR VEHICLES.**

**Licensing of Manufacturers or Repairers of or Dealers in Motor Vehicles.**

\*15. (1) If any manufacturer or repairer of or dealer in motor vehicles makes, in the prescribed manner, an application in that behalf to the registering authority of the area in which his business premises are situate, that he may be entitled, in lieu of taking out a licence for each motor vehicle kept by him at the appropriate rate of fee chargeable under Part II of the First Schedule to this Ordinance, to take out a general licence in respect of all motor vehicles used by him the registering authority may, subject to the prescribed conditions, issue to him such a licence on payment of the fee prescribed in sub-section (2) hereof. Such licence shall not cover any motor vehicle kept at any branch business of a manufacturer or repairer of or dealer in motor vehicles, but a separate general licence or licences shall, subject to the provisions of this section, be taken out in respect of all motor vehicles kept at the premises of each such branch business as if it were the principal business premises.

Such general licence shall not be transferable but shall lapse immediately such manufacturer or repairer or dealer disposes of his business by way of sale, gift or barter, or in any other manner.

\* (2) The Administrator may make two sets of regulations prescribing the conditions subject to which general licences are to be issued and prescribing the purposes for which the holder of a general licence may use it and in that case—

(a) if a licence to which the one set of regulations applies is taken out by a manufacturer, repairer or dealer the annual fee therefor shall be ten pounds (£10); in the case of manufacturers, dealers or repairers of motor cycles only the annual fee for such licence shall be one pound ten shillings (£1. 10s.);

(b) if a licence to which the other set of regulations applies is taken out by a manufacturer, or repairer or dealer the annual fee therefor shall be two pounds (£2); in the case of manufacturers, dealers or repairers of motor cycles only the annual fee for such a licence shall be ten shillings (10s.); provided that any such licence to which the first-mentioned set of regulations is applicable may be taken out for one quarter of the year only beginning the

\* As amended by Ordinances Nos. 19 of 1933 and 22 of 1940.

first day of January, the first day of April, the first day of July, or the first day of October, and in the case of any licence so taken out the fee shall be thirty per cent. of the full annual fee.

It shall be at the option of every manufacturer or repairer of or dealer in motor vehicles wishing to take out a general licence whether the licence is one to which the one or other of the two sets of regulations applies, provided that no licence to which the other set of regulations applies at an annual fee of two pounds (£2) or ten shillings (10s.) as the case may be shall be issued to any manufacturer, or repairer or dealer before he has taken out at least one licence referred to in paragraph (a) of this sub-section at ten pounds (£10) or one pound ten shillings (£1. 10s.) as the case may be.

(3) The holder of any licence issued under this section shall not be entitled by virtue of that licence to use more than one motor vehicle at any one time, other than a motor vehicle drawing a trailer and used for the prescribed purpose, or to use any motor vehicle for any purpose other than such purposes as may be prescribed.

(4) Nothing in this section shall prevent a person entitled to take out a general licence from holding two or more such licences.

(5) Provision may be made by regulation under this Ordinance for assigning a general identification mark to a person holding any licence issued under this section.

(6) If any person is aggrieved by the refusal of a registering authority to issue a general licence under this section he may appeal to the Administrator, and the Administrator shall, on any such appeal, make such order in the matter as he thinks just, and the registering authority shall comply with any order so made.

An order made by the Administrator under this provision shall not be subject to appeal to any court.

(7) If the holder of a general licence or general licences issued under this section uses at any one time a greater number of motor vehicles by virtue of that licence or those licences he shall be guilty of an offence and upon conviction shall be liable to a fine not exceeding fifty pounds and in default of payment to imprisonment for a period not exceeding three months.

\* (8) Every manufacturer or repairer of or dealer in motor vehicles upon transferring a motor vehicle or trailer whether by sale, lease or otherwise to any person other than a manufacturer or repairer of or dealer in motor vehicles, shall immediately give written notice of such transfer to the registering authority upon the prescribed form. Every such notice shall contain the date of such transfer, the names and addresses of the transferor and transferee and such description of the vehicle as may be prescribed in such form. Any person who refuses or fails to comply with the requirements of this sub-section shall be guilty of an offence against this Ordinance and upon conviction shall be liable to the penalties prescribed in sub-section (7) of this section.

#### **Offences and Penalties: Failure to Obtain Licences—Operation of Unlicensed Motor Vehicles or Trailers.**

\*16. (1) Any person who is the owner of an unlicensed motor vehicle or trailer shall, whether such motor vehicle or trailer is operated or not, be guilty of an offence and liable, on conviction, to a fine not exceeding ten pounds and in default of payment to imprisonment, with or without hard labour, for a period not exceeding one month. In addition to any sentence which the Court may impose when convicting a person for a contravention of this sub-section the Court convicting such person shall order such person to pay forthwith, or within a specified period, the amount which is found by the Court to be due by such person in respect of registration and licence fees, and penalties, if any, and the Court shall sentence such person, in default of payment of such amount, to imprisonment with or without hard labour, for a period not exceeding three months; provided that the same person shall not be sentenced under this sub-section to a second or subsequent term of imprisonment in respect of failure to pay the same debt.

(2) Any person who operates on unlicensed motor vehicle or trailer on a public road shall, whether he is the owner of such motor vehicle or trailer or not, be guilty of an offence and liable on conviction, to a fine not exceeding ten pounds and in default of payment to imprisonment, with or without hard labour, for a period not exceeding one month. In addition to any sentence which the Court may impose when convicting a person for a contravention of this sub-section the Court convicting such person—

(a) shall, if such person is the owner of such motor vehicle or trailer, order such person to pay forthwith, or within a specified period, the amount which is found by the Court to be due by such person in respect of registration and licence fees, and penalties, if any, and the Court shall sentence such person, in default of payment of such amount, to imprisonment, with

\* As substituted by Ordinance No. 22 of 1940.

or without hard labour, for a period not exceeding three months; Provided that the same person shall not be sentenced, under this paragraph to a second or subsequent term of imprisonment in respect of failure to pay the same debt;

(b) may, if such person is not the owner of such motor vehicle or trailer, order such person to pay forthwith, or within a specified period, the amount which is found by the Court to be due for registration and licence fees, and penalties, if any, in respect of the motor vehicle or trailer in question, and if the Court make such an order it shall sentence such person in default of payment of such amount to imprisonment, with or without hard labour, for a period not exceeding three months; Provided that the same person shall not be sentenced under this paragraph to a second or subsequent term of imprisonment in respect of failure to pay the same debt.

(3) A term of imprisonment imposed under sub-section (1) or (2) of this section, shall not cancel the liability for the debt in respect of which the imprisonment was imposed, and an order under one of the said sub-sections to pay such debt shall have the effect of a civil judgment and shall be executable in the same manner as such a judgment.

(4) A motor vehicle or trailer shall be deemed to be unlicensed whenever—

(a) a licence in respect of the ownership thereof, in accordance with the provisions of sub-section (1) or (2) of section *three* (whichever sub-section may be applicable), has not been obtained, and

(b) the period prescribed by the said sub-section (1) or (2) for obtaining such licence (whichever sub-section may be applicable), has expired.

*Section 11 of Ordinance No. 19 of 1933 reads as follows:—*

**Licence Fees Payable in Respect of Motor Omnibuses Owned by Local Authorities and used Outside its Area of Jurisdiction.**

11. Notwithstanding anything to the contrary in the principal law contained—

(1) a local authority empowered by any law to establish and carry on a service of motor omnibuses shall not be exempt from the payment of licence fees in respect of the ownership of motor omnibuses use or intended to be used mainly for the carriage of passengers and operated on public roads situate outside any municipality;

(2) all licence fees received in respect of the ownership of such motor omnibuses shall be paid to the Administrator for the benefit of the Provincial Revenue Fund.

## CHAPTER II.

### LICENSING OF DRIVERS OF MOTOR VEHICLES.

#### Licensing of Drivers of Motor Vehicles.

17. Subject to the provisions of section *twenty-two*, no person shall drive a motor vehicle upon a public road unless he be licensed in the prescribed manner. No person shall employ or permit any other person to drive a motor vehicle upon a public road unless that other person be so licensed. A person whose licence has been suspended under this Ordinance shall be deemed for the purposes thereof to be unlicensed. The holder of a licence to drive a motor vehicle shall not allow such licence to be used by any other person.

#### Appointment of Examiners.

\*18. (1) For the purpose of licensing drivers under this Ordinance the Administrator shall have power to appoint from time to time (and to delegate such power of appointment to any local authority in respect of its own area of jurisdiction) one or more persons at such centres and at such times as he may deem expedient to test the competency of applicants for drivers' licences and such person or persons shall, if satisfied that the applicant for any particular licence—

(a) can read and write either one or other of the official languages, has a good knowledge of the rules of the road and is competent to drive and control a motor car, a motor cycle or a motor cycle with side car or any other motor vehicle (according as the application is for a licence to drive a motor car, or motor cycle or motor cycle with side car or other motor vehicle); and

(b) is not disqualified under the provisions of this Ordinance;

(c) is of the age of sixteen years in the case of a motor cycle and eighteen years in the case of any other motor vehicle;

(d) is not disqualified in any outside territory;

(e) does not already hold such a licence under this Ordinance;

(f) has not had his licence suspended in any other Province of the Union;

(g) is not suffering from any physical or other defect which in the opinion

\* As amended by Ordinances Nos. 19 of 1933, 22 of 1940, and 18 of 1941.

of the examiner would render such proposed licensee incapable of effectively driving and controlling a motor vehicle without endangering public safety; grant a certificate of competence upon production of which either by post or otherwise, to the registering authority within whose area of jurisdiction the applicant resides and upon payment of the appropriate licence fee prescribed in Part IV of the First Schedule of this Ordinance there shall be issued a licence which shall not require renewal but shall be subject to the provisions of this Ordinance relative to suspension or disqualification. Such licence while in force shall entitle the owner thereof to drive throughout the Province of Transvaal the class of motor vehicle to which the licence refers but no other provided that the holder of a licence to drive a motor vehicle other than a tractor shall be deemed to be licensed also to drive any motor vehicle propelled by the same class of motive power of a lesser weight than that in respect of which he holds a licence but not a motor cycle with or without a side-car.

(2) It shall be the duty of the registering authority to keep in the prescribed form a register of all persons licensed hereunder.

#### **Issue of Temporary Drivers' Licences to bona fide Visitors to the Transvaal.**

\*18bis. Upon production to any registering authority by any *bona fide* visitor to the Province of Transvaal of a certificate of competence granted to him under sub-section (1) of section *eighteen* and upon payment of a fee of two shillings and sixpence in the case of a motor cycle with or without a side-car and five shillings in the case of any other class of motor vehicle there shall, notwithstanding anything to the contrary in this Ordinance contained, be issued to him by such registering authority a temporary driver's licence valid for a period of three months from the date on which it is issued. The provisions of this Ordinance shall in all other respects apply *mutatis mutandis* to such temporary driver's licence.

#### **Fees for Examinations and Payment of Examiners.**

19. (1) There shall be payable to the registering authority by every person examined as to competency to drive a motor vehicle such fees as the Administrator may prescribe.

(2) Examiners may be paid by any local authority to whom power of appointment was delegated in terms of section *eighteen* (1) at a fixed salary or at such fees per hour of time devoted to examinations of persons residing within its area of jurisdiction as it may decide.

#### **Demands for Production of Licence.**

20. Subject to the provisions of the two provisos to sub-section (1) of section *fourteen*, a police officer or any inspector of licences may call upon the driver of a motor vehicle to stop and may demand from any owner the production of all licences in respect of such motor vehicle or trailer, in force at the date of demand or from any person driving a motor car or motor cycle with side-car or other motor vehicle the production of a licence under this Ordinance authorizing such driving, and any person who fails when demand is so made to produce any such licence at a police station within seven days shall be guilty of an offence. It shall be the duty of the officer in charge of the police station where such licence was produced forthwith to notify the police or registering authority (as the case may be) of the area or district where such demand was made that such demand has been complied with. Any licence produced in terms of this section shall be suitably endorsed by the officer in charge of such police station to whom it was produced.

#### **Offence Committed in Certain Cases of Refusal.**

21. The driver of a motor vehicle who, if so required by any police officer or by any inspector of licences—

(a) refuses or fails to stop when called upon to do so;

(b) refuses or fails to give his name and address or gives a false name and address;

shall be guilty of an offence against this Ordinance.

#### **Provisional Licences.**

†22. (1) A provisional licence shall on payment of a fee of two shillings in the case of a motor cycle and of five shillings in the case of any other motor vehicle be issued by a registering authority to any person having attained the age of sixteen years in the case of a motor cycle or eighteen years in the case of any other motor vehicle who is not suffering from any such physical or other defect as is referred to in paragraph (g), sub-section (1), of section *eighteen*. Such licence shall subject to the provisions of sub-section (2) to this section entitle the holder to drive for a period not exceeding one month. Applications for provisional licences hereunder shall be made to the registering authority in whose area the applicant resides.

\* Added by Ordinance No. 18 of 1941.

† As amended by Ordinances Nos. 19 of 1933 and 22 of 1941.

(2) No person to whom a provisional licence has been issued shall drive a motor vehicle upon a public road during the currency of such a licence except under the personal supervision of a person who is the holder of a licence to drive such a vehicle.

(3) Any person who contravenes the provisions of sub-section (2) of this section shall be guilty of an offence against this Ordinance.

(4) Any person who produces satisfactory proof to the registering authority of having had previous experience of driving a motor car, motor cycle or other motor vehicle, as the case may be, in any outside territory or elsewhere and who is not exempted under sub-section (4) of section *twenty-five* from taking out a driver's licence, may be examined as to competency and be issued a licence under section *eighteen*, without being required to take out a provisional licence under this section provided that nothing herein contained shall be construed as authorizing any such person to drive any motor vehicle before taking out the appropriate licence under section *eighteen*.

**Provisions as to Physical Fitness of Licence Holders and Cancellation of Certificates or Licences by Administrator in Certain Circumstances.**

\*23. (1) If it appears to a registering authority that there is reason to believe that any person who holds a licence granted under this chapter of this Ordinance is suffering from a disease or physical disability likely to cause the driving by him of a motor vehicle, being a motor vehicle of any such class or description as he is authorized by the licence to drive, to be a source of danger to the public, and on inquiry into the matter the registering authority is satisfied that the licence holder is suffering from such a disease or disability as aforesaid then, whether or not the licence holder so suffering aforesaid, has previously passed a test under section *eighteen*, the registering authority shall report the matter to the Administrator, give written notice to the licence holder that it has done so and advise the Administrator of the date on which the notice was delivered or posted;

(2) The licence holder may within twenty-one days of the date on which the notice referred to in sub-section (1) of this section is delivered or posted apply in writing to the Administrator to undergo a test as to his competency to drive the class of motor vehicle which his licence entitles him to drive;

(3) If no application is received by the Administrator under sub-section (2) of this section he may if he is satisfied that owing to disease or physical disability the licence holder is no longer competent to drive the class of motor vehicle which his licence entitles him to drive cancel such licence;

(4) (a) If the Administrator receives an application under sub-section (2) of this section he shall constitute a special board of examiners consisting of two or more persons appointed by him and request the licence holder to undergo the test within a specified time.

(b) If the licence holder fails to undergo the test within the specified time or if the board of examiners certify that after having conducted the test it is of opinion that owing to disease or physical disability the licence holder is no longer competent to drive the class of motor vehicle which his licence entitles him to drive the Administrator may cancel such licence.

(c) Any expenditure incurred in connection with the aforesaid test shall be borne by the Transvaal Provincial Administration.

(5) (a) Whenever a licence is cancelled in terms of sub-section (3) or (4) of this section the person in whose favour it was issued shall, immediately he is advised of the cancellation, return it to the registering authority by which it was issued.

(b) Any person who fails to comply with the provisions of paragraph (a) of this sub-section shall be guilty of an offence and liable, on conviction, to the penalties prescribed by section *thirty-six*.

**Offences.**

†24. (1) Any person who acts in contravention of section *seventeen* shall be guilty of an offence.

(2) Any applicant for a driver's licence or for a provisional licence who shall give false or inaccurate information to the examiner or to the registering authority shall be guilty of an offence against this Ordinance and any court convicting him of such offence may cancel such licence and the person whose licence has been so cancelled shall be deemed to be unlicensed.

(3) (a) Whenever a licensed driver is charged with any contravention of this Ordinance he shall produce his licence to the court at the time of the hearing of the charge.

(b) If such driver fails without reasonable excuse to produce his licence as aforesaid he shall be guilty of an offence against this Ordinance.

(4) (a) The owner of any motor vehicle shall give such information as he may be required by a police officer or an inspector of licences to give as to

\* As amended by Ordinance No. 12 of 1942.

† As amended by Ordinance No. 22 of 1940.

the identity of the driver of that vehicle at any time and during any period, and, if he fails to do so, he shall be guilty of an offence against this Ordinance, unless he shows to the satisfaction of the court that he did not know and could not with reasonable diligence have ascertained who the driver was; and

(b) Any other person shall, if required by a police officer or an inspector of licences give him any information which it is in his power to give as to the identity of the driver of that vehicle at any time and during any period, and, if he fails to do so, he shall be guilty of an offence against this Ordinance.

(5) Any person who operates upon a public road a motor vehicle or trailer upon which any distinctive mark and number assigned in respect thereof under section *two* is not affixed or painted as prescribed, shall be guilty of an offence against this Ordinance.

(6) Any person who operates upon a public road a motor vehicle or trailer upon which any distinctive mark and number assigned in respect thereof under section *two*, although affixed and painted as prescribed, is in any way obscured, or has become not easily legible, shall be guilty of an offence against this Ordinance: Provided that if such person proves that such mark or number is obscured, or has become not easily legible, by reason of mud or other temporary cause not in the driver's control, he shall be discharged.

#### EXEMPTION OF MOTOR VEHICLES AND DRIVERS ELSEWHERE LICENCED.

##### Drivers and Owners Licensed Elsewhere.

\*25. (1) Notwithstanding anything to the contrary in this Ordinance contained the holder of a current authorisation to use a motor vehicle or trailer, issued by public authority in any outside territory shall, if he was not permanently resident in the Transvaal on the date on which such authorisation was issued, be entitled whilst on a temporary visit to the Province of Transvaal during the currency of such authorisation to own and use such vehicle or trailer within the Province of Transvaal without registering or licensing it in the Transvaal;

(2) Any person who is in lawful possession of a valid International Certificate for a motor vehicle or trailer issued to him in terms of any international convention relating to the driving and use of motor vehicles, to which the Government of the Union of South Africa may be a party, shall be entitled to own and use such vehicle or trailer within the Province of Transvaal during the currency of such International Certificate without registering or taking out a licence for such vehicle or trailer provided that such person was not domiciled in any province of the Union of South Africa when such certificate was issued.

(3) If the holder of a current authorisation to use a motor vehicle or trailer issued by public authority in any outside territory changes his place of residence permanently to and brings his motor vehicle or trailer into the Province of Transvaal, he shall, notwithstanding anything to the contrary in this Ordinance contained, not be required to register or license such vehicle or trailer in the Transvaal during the currency of such authorisation. Such authorisation shall during its currency be deemed, for the purposes of section *nine*, to be a licence and certificate of registration issued in terms of this Ordinance and the provisions of the said section *nine* shall apply *mutatis mutandis* in respect of such authorisation.

(4) The provisions of this chapter governing the licensing of drivers shall not apply to any driver who is duly licensed under any special law relative to motor vehicles in force in any territory in respect of which the Administrator may by proclamation extend the provisions of this sub-section provided always that the licence of any such driver shall be subject to the provisions of this Ordinance relative to suspension, endorsement or disqualification.

The following Sections were added by Ordinance No. 22 of 1941:—

##### Displaying of Distinctive Marks and Numbers and Internations Distinguishing Marks on Motor Vehicles and Trailers Licensed Elsewhere than in the Transvaal.

25bis. (1) (a) Any person who is, in terms of sub-section (1) or (3) of section *twenty-five*, exempt from registering and licensing a motor vehicle or trailer shall, as long as he is so exempt, display or cause to be displayed in such position on such vehicle or trailer and in such manner as may have been laid down by the public authority which issued the authorisation to use such vehicle or trailer the distinctive mark and number assigned to such vehicle or trailer by such authority.

(b) Any person who is, in terms of sub-section (1) or (3) of section *twenty-five*, exempt from registering and licensing a motor vehicle or trailer in respect of which an authorisation to use the same has been issued in an outside territory other than a Province of the Union of South Africa shall as long as he is so exempt display or cause to be displayed at the back of such vehicle or trailer in addition to the distinctive mark and number assigned

\* As amended by Ordinances Nos. 16 of 1938 and 22 of 1941.

to such vehicle or trailer by the public authority which issued the said authorisation the international distinguishing mark allotted to such outside territory in terms of an international convention relating to the driving and use of motor vehicles to which the Government of the Union of South Africa is a party.

(2) (a) Any person who is, in terms of sub-section (2) of section *twenty-five* exempt from registering and licensing a motor vehicle or trailer shall as long as he is so exempt display or cause to be displayed the distinctive mark and number referred to in his international certificate in such position on such vehicle or trailer and in such manner as may have been laid down by the authority which assigned such distinctive mark and number to such vehicle or trailer.

(b) Any person who is, in terms of sub-section (2) of section *twenty-five* exempt from registering and licensing a motor vehicle or trailer shall as long as he is so exempt display or cause to be displayed at the back of such vehicle or trailer in addition to the distinctive mark and number referred to in his international certificate the international distinguishing mark which has, in terms of an international convention relating to the driving and use of motor vehicles to which the Government of the Union of South Africa is a party, been allotted to the State or Territory in which such certificate was issued.

(3) No person shall display or cause to be displayed on any motor vehicle or trailer any international distinguishing mark other than that which has, in terms of an international convention relating to the driving and use of motor vehicles to which the Government of the Union of South Africa is a party, been allotted to the State, Territory or Province in which a current authorisation to use such vehicle or trailer has been issued by a public authority.

(4) No person shall operate upon a public road a motor vehicle or trailer upon which any distinctive mark and number or international distinguishing mark, although displayed as prescribed, is in any way obscured or has become not easily legible; provided that it shall be a good defence if such person proves that such distinctive mark and number or international distinguishing mark is obscured or has become not easily legible by reason of mud or other temporary cause not in the driver's control.

(5) No person shall after an exemption under sub-section (1) or (2) of section *twenty-five* from registering and licensing a motor vehicle or trailer has lapsed display or cause to be displayed on such vehicle or trailer the distinctive mark and number which he had to display on such vehicle or trailer during the period the exemption was in force or the international distinguishing mark which he had to display on such vehicle or trailer during that period.

(6) Any person who contravenes or fails to comply with any provision of sub-section (1), (2), (3), (4) or (5), of this section shall be guilty of an offence and liable, on conviction, to the penalties prescribed by section *thirty-six*.

(7) In any proceedings against any person under sub-section (1), (2), (3), or (5) of this section it shall be presumed that the allegations made in the charge sheet or indictment are true and correct unless the contrary is proved by such person.

#### **Issue of Short Term Licences to Persons not Resident in the Transvaal.**

*25ter.* Notwithstanding anything to the contrary in this Ordinance contained any person who is not resident in the Province of Transvaal and who is not entitled to the benefits granted by sub-section (1) or (2) of section *twenty-five* may upon bringing a motor vehicle or trailer into the Transvaal or acquiring one whilst in the Transvaal register and license the same for a period of three months or six months; provided that—

(a) the motor vehicle or trailer has been brought into the Transvaal or acquired in the Transvaal for private use only;

(b) the motor vehicle or trailer is registered and licensed in terms of this section within seven days after its acquisition or arrival in the Transvaal;

(c) the registration and licence fees shall be one-fourth of the annual fees if the motor vehicle or trailer is registered and licensed in terms of this section for three months and one-half of the annual fees if it is registered and licensed for six months;

(d) such certificate of registration and licence shall not be transferable or renewable and shall lapse if and when the holder thereof disposes of the motor vehicle or trailer by way of sale or in any other manner;

(e) if upon the expiration of such certificate of registration and licence the motor vehicle or trailer remains in the Transvaal it shall be registered and licensed in accordance with the provisions of Chapter I of this Ordinance.

#### **Suspension of Licence Disqualification for Obtaining or Renewing the Same.**

*26.* (1) Any court before which a person is convicted of an offence against

this Ordinance or of an offence under any other law or at common law, in respect of circumstances relating to the driving of a motor vehicle (other than a first or second offence, consisting solely of exceeding any limit of speed fixed under this Ordinance), may—

(a) if the person convicted hold a licence under this Ordinance entitling him to drive a motor vehicle, suspend that licence for such time as the court thinks fit or cancel such licence; and

(b) if the person convicted do not hold a licence under this Ordinance entitling him to drive a motor vehicle, declare him to be disqualified from obtaining such a licence for such time as the court thinks fit; and

(c) if the person convicted holds a licence under this Ordinance entitling him to drive a motor vehicle cause particulars of the conviction and of any order of the court made under this section to be endorsed thereon and also cause a copy of those particulars to be transmitted to the registering authority by whom the licence so endorsed was issued.

(2) Whenever any licence to drive a motor vehicle is endorsed, suspended or cancelled under this Ordinance such endorsement, suspension or cancellation shall apply to every other driver's licence issued to the licensee.

(3) Any person so convicted shall be guilty of a further offence against this Ordinance if he fails to produce his licence to the court for the purposes of its endorsement under this section within seven days after having been ordered to produce the same.

(4) A licence suspended by the court shall during the term of suspension be of no effect and any person whose licence is suspended or who is declared by the court to be disqualified from obtaining a licence shall during the period of suspension or disqualification be disqualified from obtaining a licence entitling him to drive a motor vehicle.

(5) An order of court under this section cancelling or suspending a licence shall be deemed to be part of the sentence passed upon any person convicted as aforesaid and any court having jurisdiction to hear and determine an appeal against the conviction and sentence may confirm or set aside the order or reduce the period mentioned therein; provided that where an appeal is brought against a conviction or sentence of a court such court may in its discretion direct that any order or suspension or cancellation made under the provisions of this section be not enforced until the appeal has been heard and determined.

(6) (a) Every endorsement made under this Ordinance on any licence shall be deemed to be *ipso facto* cancelled after the expiry of a continuous period of three years from the date upon which such endorsement was made, provided that no other endorsement was made during the said period. If any such other endorsement be made within the said period the earlier endorsement or endorsements shall continue to operate until a full continuous period of three years shall have elapsed without further endorsement.

(b) Where all endorsements are cancelled by the operation of this sub-section the holder of any licence upon which such endorsements were made shall be entitled upon application to the registering authority which issued the licence and upon payment of a fee of five shillings, to have issued to him at any time a new licence free from endorsement.

(7)—*Repealed by Ordinance No. 22 of 1940.*

**Issue of Duplicate or New Driver's Licence when old Driver's Licence has been Endorsed, Suspended or Cancelled.**

\*27. (1) Any person whose licence to drive motor vehicle had at any time or at different times been endorsed or suspended, or had at any time been cancelled, under this Ordinance or any other law in force in the Union, and who applies to any registering authority for a duplicate of such licence, or for a new licence entitling him to drive a motor vehicle, without informing such registering authority, on the date of such application, of all such endorsements or suspensions, or of such cancellation, and of the correct date on which and the correct place at which such licence was issued, shall be guilty of an offence and liable, on conviction, to a fine not exceeding fifty pounds and in default of payment to imprisonment, with or without hard labour, for a period not exceeding six months.

(2) Whenever a licence entitling a person to drive a motor vehicle has been suspended under this Ordinance or any other law in force in the Union a duplicate of such licence shall not be issued by any registering authority before the expiry of the period of such suspension, and a new licence entitling such person to drive a motor vehicle shall not at any time be issued by any registering authority without the Administrator's consent.

(3) (a) Whenever a licence which entitled a person to drive a motor vehicle has been cancelled under this Ordinance or any other law in force in the Union a duplicate of such licence shall not be issued by any registering

\* As substituted by Ordinance No. 22 of 1940.



authority, and no new licence entitling such person to drive a motor vehicle shall, without an instruction from the Administrator under paragraph (b) of this sub-section, be issued by any registering authority.

(b) Whenever circumstances arise which in the opinion of the Administrator justify the issue of a new licence to a person whose licence to drive a motor vehicle was cancelled under this Ordinance or any other law in force in the Union the Administrator may at any time instruct a registering authority to issue a new licence to such person entitling him to drive a motor vehicle.

(4) (a) If a licence is issued while any of the provisions of this section have been contravened by any person or by any registering authority such licence shall be of no force and effect and the registering authority which issued such licence shall instruct the person to whom it has been issued to return it within seven days.

(b) Any person who has been instructed by a registering authority, which had issued a licence while any of the provisions of this section had been contravened by any person or registering authority, to return such licence and who fails to return it to such registering authority within seven days of the date of such instruction shall be guilty of an offence and liable, on conviction, to a fine not exceeding fifty pounds and in default of payment to imprisonment, with or without hard labour, for a period not exceeding six months.

### CHAPTER III.

#### ACCIDENTS.

##### Duties of Motor Drivers in Case of Accident.

\*28. (1) Whenever owing to the presence of any motor vehicle upon or near a public road, an accident occurs whereby damage or injury is caused—

- (a) to any person; or
- (b) to any animal drawing any vehicle or carrying or being led by or in the immediate charge of any person; or
- (c) to any vehicle; or
- (d) to any other property

it shall be the duty of the driver of the motor vehicle to stop the same and, if required so to do by any person, to give his name and address, the name and address of the owner, and the mark and number affixed to or painted on the motor vehicle.

(2) The driver of any motor vehicle which becomes involved in any such accident shall, unless the accident has already been reported to a police officer, forthwith report such accident to the nearest police station.

(3) Any person who is the driver of a motor vehicle upon a public road at the time when such motor vehicle is involved in any accident in which injury is caused to any person shall render such assistance to the injured person as he may be capable of rendering and as the injured person may need.

(4) In this section the expression "animal" means any horse, cattle, ass, mule, sheep, pig, goat or dog.

(5) Any person who fails to comply with the provisions of this section shall be guilty of an offence against this Ordinance and shall be liable on conviction to a fine not exceeding one hundred pounds (£100) and, in default of payment of such fine, to imprisonment for a period not exceeding six months.

#### WARNING SIGNS.

##### Warning Signs.

†29. (1) Any local authority acting within its area of jurisdiction shall cause or permit to be erected or displayed for the guidance of drivers of motor vehicles using public roads signals, warning sign posts, direction posts, signs or devices (hereinafter referred to as warning signs) of such size, colour and nature as may be prescribed and at such places as it may decide or as the Administrator may specially direct and may exercise all necessary powers for the purposes provided that the warning signs for speed limit, prohibition of traffic, danger or caution and general shall as to design, size and colour be those respectively as prescribed by regulations framed under this Ordinance and provided further that where the Administrator is satisfied that circumstances of special danger exist he may authorize the erection of special signs.

(2) No warning signs, other than such as comply with the provisions of this Ordinance or the regulations thereunder shall be erected, placed or displayed upon or adjacent to any public road or at any place other than such as may be decided by the local authority or as may be directed by the Administrator as aforesaid or by any person other than the local authority or a person authorized by the local authority.

\* As amended by Ordinance No. 22 of 1940.

† As amended by Ordinance No. 16 of 1938.

(3) Any local authority acting within its area of jurisdiction or the Administrator, in respect of any public roads vested in him or of any area outside the area of jurisdiction of a local authority, may by notice in writing require the owner or occupier of any land upon which any warning sign is erected, placed or displayed to remove it if it does not comply with the provisions of this Ordinance or the regulations thereunder and if any person fails to comply with such a notice the local authority or any person duly authorized by the Administrator, as the case may be, may enter and effect the removal doing as little damage as may be, and may recover from the person so in default the expense incurred in so acting.

(4) Any warning sign erected under the provisions of any law repealed by this Ordinance may continue to be maintained as a warning sign for a period not exceeding two years from the commencement of this Ordinance notwithstanding that such warning sign is not in accordance with the requirements of this section and any such warning sign so maintained shall be deemed to be sufficient for any of the purposes of this Ordinance or the regulations thereunder.

#### SPEED LIMITS.

##### Limit on Rates of Speed.

\*30. (1) Anything to the contrary in this Ordinance notwithstanding no person shall drive upon a public road any motor vehicle referred to in the Third Schedule to this Ordinance at a speed exceeding the rate per hour, if any, specified in the said schedule for such vehicle, provided that in respect of any area outside the limits of a municipality the Administrator may, or in respect of any municipality the local authority may, make \*regulations or by-laws as the case may be imposing for the better preservation of public roads, or, for the safety of the public, limits of speeds for any motor vehicle for which no such limit has been prescribed in the said schedule or reducing the maximum speed prescribed in the said schedule in respect of any motor vehicle—

(a) at bridges, dangerous corners, cross roads and precipitous places;

(b) within specially defined areas; and

(c) in the case of motor-cars and motor cycles when drawing a trailer or when the laden or unladen weight thereof, or the number of passengers carried thereby, is in excess of such limits as may be prescribed, or when such other regulations with respect to construction and equipment as may be prescribed are not complied with provided further that in addition to the limits of speed imposed by a local authority as aforesaid the local authority may make by-laws imposing for the better preservation of public roads or for safety of the public a

general limit of speed for any motor vehicle for which no limit of speed has been prescribed in the said schedule or reducing the maximum speed prescribed in the said schedule in respect of any motor vehicle, to be observed throughout that portion of its area of jurisdiction for which it has not imposed a speed limit in terms of paragraph (a) and (b) of this sub-section.

(2) Any person who contravenes any provision of this section or of any regulations or by-laws made thereunder shall be liable on conviction to the penalties prescribed by section *thirty-five bis* of this Ordinance.

(3) No person shall be convicted of a contravention of any provision of this section or of any such regulation or by-law as aforesaid—

(a) unless notice in writing of the intention to report the matter with a view to prosecution has been given to him or to the registered owner of the motor vehicle by a police officer or an inspector of licences within ten days after the offence was committed;

(b) upon the evidence of one person only as to the rate of speed;

(c) upon evidence not supported by measurements as to time and distance.

(4) No person shall be convicted of a contravention of sub-section (1) in regard to speed limits at bridges, dangerous corners, cross roads or precipitous places or in specially defined areas, unless the court be satisfied that the local authority or the Administrator (as the case may be) has caused to be affixed and kept affixed and legible at such bridges, dangerous corners, cross roads or precipitous places or at or within the limits of such specially defined areas in a reasonably conspicuous manner and place, notices or signs warning the public of the maximum rate of speed aforesaid thereat or therein.

(4)*bis*. No person shall be convicted of a contravention of sub-section (1) in regard to a general speed limit imposed in terms of the second proviso to sub-section (1) unless the court be satisfied that the local authority has caused to be affixed and kept affixed and legible at each place where a public road enters or leaves the area of jurisdiction of the local authority in a reasonably conspicuous manner and place notices or signs warning the public of the aforesaid general speed limit.

\* As amended by Ordinance No. 12 of 1942.

(5) Any person who aids, abets, counsels or procures any person who is employed by him to drive, or is subject to his orders in driving a motor vehicle on a public road to commit an offence under this section, shall be liable to a fine not exceeding fifty pounds, and in the case of a second or subsequent conviction, to a fine not exceeding one hundred pounds, or to imprisonment for a period not exceeding three months, or to both such fine and imprisonment.

#### RECKLESS DRIVING.

##### Reckless Driving.

31. (1) Notwithstanding anything in the preceding section contained any person who drives a motor vehicle upon a public road—

- (a) recklessly or negligently; or
- (b) while under the influence of intoxicating liquor or narcotic drugs; or,
- (c) at a speed which is dangerous to the public, regard being had to all the circumstances of the case, including the nature, condition and use of the road and to the amount of traffic which is actually at the time or which might reasonably be expected to be thereon; or
- (d) in a manner which is dangerous to the public, regard being had to all the circumstances of the case, including the nature, condition and use of the road and to the amount of the traffic which is actually at the time or which might reasonably be expected to be thereon; or
- (e) negligently and thereby injures any person or damages any property; shall be guilty of an offence and liable to a fine not exceeding two hundred pounds (£200) or in default of payment to imprisonment for a period not exceeding twelve months or to such imprisonment without the option of a fine. In addition to the above penalty the court may endorse the licence or suspend the licence for a period not exceeding two years or cancel the licence.

(2) If any driver has injured any person on a public road as a result of driving a motor vehicle and fails to stop such vehicle and render such assistance to the person injured as he may be capable of rendering and as the person injured may need he shall be guilty of a separate offence and liable to a fine not exceeding five hundred pounds (£500) and to imprisonment for a period not exceeding two years. In addition to such penalty the court shall either suspend his licence for a period not exceeding five years or cancel such licence.

(3) If any person has reasonable grounds for believing that the driver of any motor vehicle has committed an offence under this section, he may, within a reasonable time after the occurrence of the event which gave rise to such belief and in the absence of a police officer, require any person, who is or was in any way connected with such vehicle at the time of such occurrence, to furnish him with his name and address, and if such last-mentioned person fails to comply with such requirement or furnishes a false name and address he shall be guilty of an offence against this Ordinance.

(4) If the holder of a driver's licence has been convicted under any law of causing the death of or any injury to any person or of causing any injury or damage to property by means of a motor vehicle the court convicting him may suspend the licence for any period or cancel the licence.

##### Duty of Persons in Motor Vehicle to Give Information to Police, etc.

32. (1) Every person on or within a motor vehicle upon a public road who fails upon the demand of a police officer or of an inspector of licences to give to him such information as he is able as to the name and address of the driver of the motor vehicle and of the owner thereof or who gives false information shall be guilty of an offence against this Ordinance.

(2) The owner of any motor vehicle who willfully refuses upon demand of a police officer or of an inspector of licences to supply him with the name and address of any person who was driving or in charge of his motor vehicle upon a public road at any particular date and time, shall be guilty of an offence against this Ordinance.

##### Prohibition of Use of Motor Vehicle and of Interference with Machinery thereof without Consent of Owner.

\*33. (1) Any person who without reasonable cause or without the knowledge or consent of the owner or person in lawful charge of a motor vehicle—

- (a) sets the machinery thereof in motion; or
  - (b) places a motor vehicle in gear; or
  - (c) in any way interferes with the machinery, accessories or parts of any motor vehicle; or
  - (d) enters or climbs upon such motor vehicle;
- while such motor vehicle is upon a public road shall be guilty of an offence against this Ordinance, provided that this sub-section shall not apply to any

\* As amended by Ordinances Nos. 19 of 1933 and 22 of 1940.

police officer or inspector of licences when exercising the powers or carrying out the duties vested in or imposed upon him by this Ordinance or any regulation or by-law thereunder or by any other law.

(2) Any person who without the knowledge or consent of the owner or person in lawful charge of any motor vehicle rides in or drives the same or any person who procures the use or hire of any motor vehicle by fraud or misrepresentation shall be guilty of an offence and shall be liable on conviction to a fine of not exceeding two hundred pounds (£200) or in default of payment to imprisonment for a period not exceeding twelve months or to such imprisonment without the option of a fine.

(3) Any person who shall individually, or in association with one or more others, wilfully break, injure, cut, tamper with or remove any part or parts of any motor vehicle upon a public road for the purpose of injuring, defacing or destroying such vehicle, or temporarily or permanently preventing its useful operation, or for any purpose against the will or without the consent of the owner of such vehicle or who shall in any other manner wilfully or maliciously interfere with or prevent the running or operation of such vehicle or who shall wilfully or maliciously throw any article at any such vehicle or at any person in such vehicle and thereby shall injure or damage the vehicle or the driver or passengers or any property therein shall be guilty of an offence against this Ordinance.

#### **Forgery, etc., of Identification Marks or Licences.**

34. (1) Any person who (either in writing, drawing or in any other manner) fabricates or alters, defaces, mutilates or adds anything to any mark or number affixed to or painted on a motor vehicle under this Ordinance, or who fabricates, forges, or with intent to deceive, alters, defaces, mutilates or adds anything to any certificate or licence issued under this Ordinance or who knowing that the mark or number so affixed to or painted on a motor vehicle has been fabricated or altered, defaced, mutilated, or that something has been added thereto unlawfully, uses that vehicle or lends, lets or permits the same to be used by any other person or knowing that a certificate or licence has been so fabricated, forged, altered, defaced, mutilated or that something has been added thereto unlawfully, displays that certificate or licence or produces it to any person or lends or permits the same to be used by any other person, and any person who permits the same to be used by any other person, and any person who impersonates any particular licensed driver shall be guilty of an offence against this Ordinance.

(2) Any person who knowingly buys, sells, receives, disposes of, conceals or has in his possession any motor vehicle from which any distinctive number or identification mark has been removed, defaced, covered, altered or destroyed for the purpose of concealment or misrepresenting the identity of the said motor vehicle shall be guilty of an offence against this Ordinance.

#### **Powers of Authorities to Restrict or Prohibit use of Road for Motor and other Traffic.**

35. (1) The Administrator and every local authority acting within its jurisdiction may by such warning sign as is described in section *twenty-nine*, prohibit or restrict the use of motor vehicles or other vehicles upon any public road or part thereof. Any person who drives a motor vehicle or other vehicle upon a public road or part thereof in contravention of any such prohibition or restriction shall be guilty of an offence against this Ordinance, provided that no alteration in any district or area of any local authority in respect to speed limit or prohibition or restriction of use of motor vehicles or other vehicles upon any such road shall be of force until the expiry of one week after notice to that effect has been given by advertisement in a newspaper circulating in that area or district.

(2) In addition to the powers elsewhere conferred by this Ordinance it shall be lawful for the Administrator, by notice in the *Provincial Gazette* to prohibit or restrict the use upon any public road or part thereof of any motor vehicle which has not all its wheels fitted with pneumatic or solid rubber tyres. Any person who drives a motor vehicle upon a public road or part thereof in contravention of any such prohibition or restriction shall be guilty of an offence against this Ordinance. No person shall be convicted of a contravention of this sub-section unless the court be satisfied that the Administrator has caused to be affixed and kept affixed and legible at each end of the limits prescribed in a conspicuous place on or near the public road, notices warning the public of the prohibition or restriction.

#### **Penalties in the Case of Certain Serious Offences.**

35*bis*. Any person who is convicted of the offence of contravening—

- (a) section *seventeen* read with sub-section (1) of section *twenty-four*, or
- (b) section *twenty-one*, or

\* Added by Ordinance No. 12 of 1942.

(c) sub-section (2) or (4) of section *twenty-four*, or  
 (d) sub-section (1) of section *thirty* or any regulation or by-law made thereunder, or  
 (e) section *thirty-two*, or  
 (f) sub-section (1) or (3) of section *thirty-three*, or  
 (g) section *thirty-four*  
 of this Ordinance shall be liable to a fine not exceeding £100 and in default of payment to imprisonment with or without hard labour for a period not exceeding six months.

#### Penalties.

36. (1) Any person convicted of an offence against this Ordinance or the regulations or by-laws thereunder shall if no penalty is specially provided therefor, be liable—

(a) in respect of a first offence to a fine not exceeding ten pounds;

(b) in respect of a second or subsequent offence to a fine not exceeding twenty pounds or to imprisonment without the option of a fine for a period not exceeding three months, or to both such fine and imprisonment.

(2) In default of payment of any fine imposed under this Ordinance or the regulations or by-laws thereunder the offender may be sentenced in addition to any other period of imprisonment which may be lawfully imposed, to a period of imprisonment—

(i) in the case mentioned in paragraph (a) of sub-section (1) not exceeding one month;

(ii) in the case mentioned in paragraph (b) of sub-section (1) not exceeding three months.

### CHAPTER IV.

#### REGULATION OF PUBLIC SERVICE MOTOR VEHICLES AND THE LICENSING OF THE DRIVERS THEREOF.

##### Application of Chapter IV.

\*37. (1) This chapter of this Ordinance applies to public service motor vehicles; that is to say, motor vehicles (other than tramcars and motor vehicles belonging to the Government of the Union of South Africa or the Provincial Administration or to a local authority) used for carrying passengers or goods or both for hire or reward, or plying for hire in any public road.

(2) Any person who conveys passengers or goods shall be presumed to carry such passengers or goods for hire or reward unless the contrary is proved.

##### Certificate of Fitness.

38. (1) From and after a †date to be fixed by the Administrator by proclamation in the *Provincial Gazette* no person shall use or cause or permit to be used on any public road a public service motor vehicle unless he is in possession of a certificate (hereinafter referred to as a certificate of fitness) issued by a certifying officer as defined in section *forty-six* that the prescribed conditions as to fitness are fulfilled in respect of the motor vehicle and such a certificate is in force in respect of the motor vehicle.

(2) A certificate of fitness shall, unless previously revoked or cancelled, continue in force for one calendar year, or if the certifying officer thinks fit, for such shorter period, not being less than six months, as may be specified in the certificate.

(3) A certificate of fitness may at any time be revoked by the registering authority and where by reason of the revocation of a certificate of fitness or otherwise a motor vehicle ceases to be a motor vehicle in respect of which a certificate of fitness is in force, such motor vehicle shall not be used as a public service motor vehicle and any licence granted in respect of that vehicle shall cease to have effect unless or until a new certificate of fitness is obtained.

(4) If any person uses or causes or permits a public service motor vehicle to be used in contravention of this section he shall be guilty of an offence against this Ordinance.

##### Drivers' Licences.

‡39. (1) From and after the first day of January, 1932, a person shall not drive a public service motor vehicle on a public road unless he is licensed for the purpose under this chapter of this Ordinance by the registering authority of the area in which he resides (hereinafter referred to as the licensing authority) and any owner or person in charge of such a vehicle shall not employ any person who is not so licensed to drive a public service motor vehicle on a public road.

\* As amended by Ordinances Nos. 19 of 1933 and 16 of 1938.

† This date is the 1st July, 1932.—Administrator's Proclamation No. 102, dated 11th September, 1931.

‡ As amended by Ordinance No. 19 of 1933.

(2) An application for a licence to act as a driver of a public service motor vehicle or for a renewal thereof shall be made to the licensing authority. Such application shall be accompanied by the licence (or the duplicates thereof) granted to the applicant under section *eighteen*. Upon payment of the licence fee in this sub-section prescribed and subject to the provisions of the next succeeding sub-section the licensing authority shall issue the licence or grant a renewal thereof as the case may be in the prescribed form.

(a) A quarterly licence shall be granted—

- (i) from 1st January to 31st March;
- (ii) from 1st April to 30th June;
- (iii) from 1st July to 30th September;
- (iv) from 1st October to 31st December;

and the fee for such a licence shall be six shillings and sixpence a quarter and shall be payable on or before the seventh day of each quarter.

(b) A half-yearly licence shall be granted—

- (i) from 1st January to 30th June;
- (ii) from 1st July to 31st December;

and the fee for such a licence shall be eleven shillings a half year and shall be payable on or before the fifteenth day of January and the fifteenth day of July in each year.

(c) A yearly licence shall be granted from the 1st January to the 31st December and the fee therefor shall be twenty shillings and shall be payable on or before the fifteenth day of January in each year.

(3) A licence to drive a public service motor vehicle or a renewal thereof shall not be granted unless the applicant is in possession of a licence to drive a motor vehicle issued to him under section *eighteen*, is over the age of twenty-one and fulfils such other conditions as may be prescribed; provided that the above-mentioned limit of age shall be dispensed with if the applicant shows to the satisfaction of the licensing authority that before the commencement of this Ordinance he was regularly employed as a driver of a public service motor vehicle for a period of not less than six months.

(4) A licence to drive a public service motor vehicle shall be limited to such type or types of motor vehicles as may be specified in the licence.

(5) If a person acts in contravention of this section he shall be guilty of an offence.

#### **Duration and Renewal of Licences.**

40. A licence under this chapter of this Ordinance shall, unless suspended or revoked in the meantime, continue in force for one calendar year, but may be renewed from time to time by the licensing authority by which it was originally granted for one calendar year at a time.

#### **Duty to Give Notice of Accidents, etc.**

41. (1) It shall be the duty of the driver of a public service motor vehicle on the happening to the motor vehicle of any failure or accident or damage of a nature calculated to affect the safety of the passengers or of persons using the road, forthwith to report the matter to the registering authority which issued the licence in respect of the motor vehicle in terms of section *five* (1) hereof.

(2) It shall be the duty of the holder of a licence of a motor vehicle used as a public service motor vehicle on any alteration otherwise than by way of replacement of parts being made in the structure or equipment of the motor vehicle forthwith to give notice of the alteration to the registering authority which issued the licence in terms of section *five* (1) hereof.

(3) If any person fails to comply with the provisions of this section, he shall be guilty of an offence against this Ordinance.

#### **Suspension of and Revocation of Vehicles' Licences for Defects.**

42. (1) If on the inspection of a public service motor vehicle it appears to an inspector of licences that the motor vehicle, owing to any defects therein, is or is likely to become unfit for service until the defects have been remedied, he may suspend the licence issued in terms of section *five* (1) hereof in respect of the motor vehicle provided that where in the opinion of such inspector the defects are such as can be remedied within forty-eight hours, and are not defects which involve danger to the public, the suspension shall not operate before the expiration of forty-eight hours, nor shall it operate after the expiration of that time if the licensee before the expiration of that time furnishes evidence to the satisfaction of the inspector of licences that the defects have been or are in course of being remedied.

(2) Where any such inspector suspends a licence under this section he shall forthwith give notice of the suspension to the registering authority which issued the licence under section *five* (1), and to the licensee, and a suspension under this section which becomes operative shall continue in force until it is removed or ceases in accordance with the provisions hereinafter contained.

(3) Where a licence has been suspended under this section the suspension may be removed either by the inspector of licences by whom it was imposed, or by the registering authority by which the licence was granted.

(4) Where a licence has been suspended under this section, the licensee may, and if so required by the registering authority or the inspector of licences to whom application for the removal of the suspension has been made, shall submit the motor vehicle for examination by a certifying officer as defined in section *forty-six*, and on production to the registering authority of a new certificate of fitness the suspension shall cease.

(5) A licence in respect of a motor vehicle used as a public service motor vehicle which has been suspended may be revoked by the registering authority if the authority considers that the defects are such that they cannot be remedied; provided that a registering authority shall not revoke a licence until the licensee has been given an opportunity for obtaining a new certificate of fitness.

#### **Suspension and Revocation of Licences for Offences.**

43. (1) Where the holder of a licence in respect of a motor vehicle used as a public service motor vehicle is convicted of a second or subsequent offence to which this section applies, or of a first offence in any case where such conviction is by this chapter of this Ordinance expressly made the ground for suspension or revocation, the registering authority may suspend the licence for such period as it thinks fit, or may revoke the licence.

(2) The offences to which this section applies are—

(a) in the case of the holder of a licence for a motor vehicle used as a public service motor vehicle, any offence under this chapter of this Ordinance; and

(b) in the case of the holder of a licence to act as driver of a public service motor vehicle any offence under this Ordinance, or any offence for which a sentence of imprisonment without the option of a fine is imposed.

#### **Revocation of Licences by Administrator and Cancellation of Licences.**

44. (1) The Administrator may at any time, on proof to his satisfaction that a licence under this chapter of this Ordinance should be revoked, revoke the licence.

(2) A licence to act as a driver of a public service motor vehicle shall *ipso facto* cease to be in force if the licence granted under Chapter II to the holder thereof has been cancelled under and in accordance with the provisions of this Ordinance.

#### **Registers of Certificates and Licences.**

45. (1) Every registering authority shall keep a register in such form and containing such particulars as may be prescribed of all certificates of fitness and licences granted or renewed by the authority under this chapter of this Ordinance.

(2) Amongst the particulars to be entered in the register shall be convictions for offences, conviction of which renders, or if it were a second or subsequent offence would render, the holder of the licence liable to have his licence suspended by the registering authority under this chapter of this Ordinance.

#### **Appointment of Officers.**

46. (1) For purposes of the provisions of this chapter of this Ordinance in regard to the certification of fitness of public service motor vehicles the licensing authority may appoint such officers (in this chapter of this Ordinance referred to as certifying officers) as it thinks fit, and those officers shall perform such duties in relation to the examination of vehicles, the issue of certificates of fitness and otherwise, as the licensing authority may require, and shall be entitled to receive in respect of the performance of those duties such fees, allowances or remuneration as the Administrator may direct, or, in cases of such officers being employees of a local authority, as such local authority may decide.

(2) Every local authority may appoint, or join with another local authority in appointing as inspectors of licences such officers having the prescribed qualifications as, subject to the approval of the Administrator, it considers necessary for the purpose of the inspection of public service motor vehicles within its area.

#### **Appeals to the Administrator in Respect of Vehicle Licences and Certificates of Fitness.**

47. (1) Any person who—

(a) being the holder of a licence in respect of a motor vehicle use as a public service motor vehicle, is aggrieved at the suspension or revocation thereof by the registering authority; or

(b) being an applicant for or the holder of a certificate of fitness is aggrieved by the refusal of a certifying officer to issue such a certificate or by the limitation of its duration proposed by the certifying officer or by the revocation of a certificate;  
may within the prescribed time and in the prescribed manner appeal to the Administrator.

(2) On any such appeal the Administrator shall have the power to make such order as he thinks fit, and any such order shall be binding upon the registering authority; and the Administrator shall have the power to do anything which the registering authority or the certifying officer is authorized to do.

#### Appeals to Administrator in Respect of Drivers' Licences.

48. (1) Any person who, being—

(a) the applicant for a licence to act as driver of a public service motor vehicle is aggrieved by the refusal or failure within the prescribed time, of the licensing authority to grant or renew such a licence, or by any limitation imposed thereon; or

(b) being the holder of such a licence, is aggrieved at the suspension or revocation of the licence,  
may within a period of twenty-one days of such refusal, failure, suspension or revocation appeal to the Administrator and the Administrator shall have power to do anything which the licensing authority could have done; and where the appeal is in respect of the refusal or failure to renew a licence, the licence shall continue in force until the appeal has been disposed of, notwithstanding that in the meantime it may have expired by effluxion of time.

(2) (a) The Administrator is hereby authorized to delegate his powers under this and the preceding section to any person specially designated by him for the purpose of hearing and disposing of appeals under the said sections.

(b) The decision of the Administrator or of such person given on appeal to him under those sections shall be final.

#### Public Service Motor Vehicles Routes, Stopping Places and Stands.

\*49. (1) A local authority may from time to time by resolution—

(a) determine the routes to be followed by public service motor vehicles from one specified point to another, either generally or between specified times, or alter or cancel such routes;

(b) fix the stopping places and stands for public service motor vehicles on such routes, or cancel any such stopping places or stands and fix other stopping places or stands on such routes;

Provided that—

(i) such routes shall be determined or altered subject to the provisions of the Motor Carrier Transportation Act, 1930;

(ii) whenever such resolution has been taken the local authority shall publish, at its own expense, a notice in the *Provincial Gazette*, and in at least one English and one Afrikaans newspaper circulating in the municipality, stating that such resolution has been taken and is lying for inspection at a specified place and up to a specified date, which shall not be earlier than twenty-one days from the date of publication of the newspaper or *Provincial Gazette* in which such notice is published last, and calling upon any person who has any objection to lodge his objection with the town clerk, in writing, not later than the last day on which such resolution will be lying for inspection;

(iii) if no objection is received by the town clerk under paragraph (ii) of this proviso, the resolution shall come into operation on a date specified by the local authority which shall not be earlier than the day following the last day on which such resolution was lying for inspection;

(iv) if objections are received by the town clerk the matter shall be referred to the Administrator who may sanction such resolution, either with or without any modification he thinks fit. The Administrator may also refuse to sanction such resolution and the resolution shall then have no force and effect.

(2) The decision of the Administrator shall be notified in the *Provincial Gazette*, at the expense of the local authority: Provided that if such resolution has been sanctioned by the Administrator, either with or without modification, the date from which such resolution shall come into operation shall be stated in such notice.

#### Railway Level Crossings.

†50. (1) The driver of a public service motor vehicle whilst carrying passengers shall upon approaching any railway crossing, other than one protected by a barrier controlled from a signal cabin, bring such vehicle to a dead stop and

\* As substituted by Ordinance No. 22 of 1940.

† As amended by Ordinance No. 19 of 1933.



shall not drive the vehicle across such crossing until he has ascertained that it is safe to do so.

(2) Any person who acts in contravention of this section shall be guilty of an offence against this Ordinance.

#### General Power of Making Regulations.

51. The Administrator may from time to time make regulations for prescribing anything which may be prescribed under this chapter of this Ordinance, and in particular may make regulations on any or all of the following matters—

- (a) the forms to be used for the purpose of this chapter of this Ordinance;
- (b) applications for and the issue of licences and of certificates of fitness;
- (c) the issue of copies of licences and certificates in the case of licences or certificates of fitness lost or destroyed;
- (d) the fees to be payable under this chapter of this Ordinance and the persons liable to pay the same and for the payment of fees to certifying officers through the licensing authority in all cases or in such cases as may be prescribed;
- (e) the custody, production and cancellation on revocation or expiration of licences and certificates of fitness, and the return to the licensing authority of licences and certificates which have become void or have been revoked;
- (f) the specification, structural requirements and conditions of motor omnibuses being public service motor vehicles; the conditions under which applications for the licensing of such vehicles under section five (1) shall be made; the compulsory inspections and examinations of such vehicles and the fees to be paid therefor; the conditions under which such licences shall be issued; the suspension of such licences where prescribed structural requirements and conditions are not being complied with or are altered and for the general safety, comfort and convenience of persons carried or conveyed in or by such vehicles; provided that anything to the contrary in this Chapter of this Ordinance notwithstanding the provisions of any regulations made hereunder shall apply to all motor omnibuses being public service motor vehicles belonging to the Government or to the Provincial Administration or to a local authority.

### CHAPTER V.

#### APPORTIONMENT OF FEES AND FINES.

##### Fees and Fines.

\*52. (1) Save as provided in sub-section (3) hereof all fees received in respect of any registration certificates and licences issued under the provisions of Chapter I of this Ordinance shall be paid to the Administrator provided that—

(a) in respect of the amount of licence fees paid for motor vehicles during any financial year by persons residing within any municipality [hereinafter in this paragraph and in paragraph (b) called "such amount"];

where such amount does not exceed twice the amount paid by such persons during the financial year ended the 31st March, 1927, one-half of such amount shall be refunded to the local authority concerned and where such amount does exceed twice the amount paid by such persons during the said financial year the amount paid by such persons during the said financial year together with one-sixth of the excess of such amount over twice the amount paid by such persons during the said financial year shall be refunded to the local authority concerned; provided that in the case of any new local authority constituted at any time during the period from the first day of April, 1927, to the thirtieth day of September, 1927 (both days inclusive), the amounts paid by such persons between the date of the proclamation constituting such local authority and the thirtieth day of September, 1927, shall, for the purposes of this sub-section, be deemed to be the amount paid by such persons during the financial year ended the 31st March, 1927; and provided further that in the case of every new local authority constituted after the thirtieth day of September, 1927, such local authority shall receive a refund of one-sixth of such amount;

(b) the Town Council of Randfontein shall be regarded for the purposes of this sub-section as being a local authority constituted before the 1st day of April, 1927, and such amount in relation to the municipalities of Krugersdorp and Randfontein shall from the first day of January, 1929, be deemed respectively to be the amount of licence fees paid during any financial year by persons residing within the respective municipalities, and the refunds that shall be made to the councils of the said municipalities shall be calculated on the amount of licence fees paid by persons residing in the said municipalities during the financial year ended the 31st March, 1927, as if the said

\* As amended by Ordinance No. 17 of 1933.

municipalities had been separately constituted at any time before the beginning of the said financial year;

(c) in respect of the amount of licence fees paid for trailers during any financial year by persons residing within any municipality one-half of such amount shall be refunded to the local authority concerned;

(d) in respect of the amount of all fees collected under this Ordinance by any local authority appointed as a registering authority on behalf of the Administrator from persons residing within its area of jurisdiction as a registering authority but outside the municipality one-twentieth of the amount so collected shall be paid to such local authority.

(2) All fines recovered for any offence under Chapters I to IV (inclusive) of this Ordinance or any regulations or by-laws framed under Chapter VI of this Ordinance shall be the property of the local authority having control, under the Local Government Ordinance, 1926, or any amendment thereof, of the municipality in which the offence was committed. Where there is no local authority having control of such municipality as aforesaid such fines shall be paid into the Provincial Revenue Fund.

(3) All fees received from persons residing within a municipality in respect of—

(a) transfers as prescribed by section *nine* (2);

(b) duplicates of certificates and licences;

(c) licensing of manufacturers or repairers of or dealers in motor vehicles;

(d) drivers' licences and duplicate drivers' licences and fees under section *eighteen*, section *nineteen* and section *thirty-nine*;

(e) fees for provisional licences under section *twenty-two* (1);

(f) new licences issued under section *twenty-six* (6) (b);

(g) annual licences as set forth in Part II of the First Schedule hereto in respect of any motor vehicle exceeding in weight 6,000 lb. which is used or intended to be used to haul another vehicle provided that such motor vehicle does not in the opinion of the Administrator habitually use any public roads outside a municipality;

(h) inspections prescribed under section *fifty-three* (13) (e);

(i) other prescribed matters;

shall be the property of the local authority and shall form part of the revenue of such local authority.

(4) All fees received by any registering authority under Section *seventeen* (2) of the Motor Carrier Transportation Act, 1930, less five per cent. of such amount shall be paid to the Administrator for the benefit of the Provincial Revenue Fund, provided that where some person other than the local authority is appointed a registering authority the full amount received under the said provision shall be paid to the Administrator; and provided further that where the Administrator is satisfied that such fees have been received in respect of motor vehicles which are being wholly and habitually used within any municipality and that no revenue has been derived by the local authority in respect of such vehicles under paragraph (k) of section *three* of Act No. 22 of 1916 as amended by Act No. 40 of 1930 he shall cause a refund to be made to the local authority of an amount equal to the amount of the fees received by him in respect of such vehicles.

(5) For the purposes of this chapter of this Ordinance the expression "financial year" means the twelve months' period ending on the 31st March of any year.

(6) Sub-section (2) of section *three* of the Roads Fund Ordinance, No. 19 of 1927, as amended by section *one* of Ordinance No. 14 of 1928 shall be and is hereby amended by the deletion of the words "section *eighteen* of the Motor Vehicles Ordinance, 1915, as amended" and by the substitution thereof of the words "sub-section (1) of section *fifty-two* of the Motor Vehicle Ordinance, 1931, or any amendment thereof."

## CHAPTER VI.

### GENERAL REGULATIONS AND BY-LAWS.

#### **Administrator may make Regulations.**

\*53. The Administrator may from time to time make regulations not inconsistent with the provisions of this Ordinance—

(1) in respect of any matters which this Ordinance specially provides may be prescribed by regulation;

(2) providing generally for facilitating the identification of motor vehicles and trailers, and in particular determining and regulating the size, shape and character of the identifying or distinctive marks and numbers to be affixed under this Ordinance, the mode in which they are to be affixed and displayed and the means to be adopted to render them easily distinguishable, whether by night or by day, and the entry of particulars, including

\* As amended by Ordinances Nos. 19 of 1933 and 12 of 1942.

particulars of ownership of motor vehicles and trailers, in the register and the giving of those particulars, and for preventing the acquisition, sale or other disposal of second-hand motor vehicles and trailers unless licences are current in respect of the ownership thereof and prescribing the circumstances under which the registration of motor vehicles shall be cancelled, and for making the registration of motor vehicles and licensing of motor vehicles and trailers void if the regulations as to registration and licensing are not complied with;

(3) (a) requiring the owners of motor vehicles to furnish from time to time all such particulars as may be required for the purposes of registration and licensing of motor vehicles and trailers or for statistical purposes;

(b) prescribing the form of and the particulars to be included in any register with respect to motor vehicles for which licenses have been taken out by manufacturers or repairers of or dealers in motor vehicles, and the identification marks to be carried by any such vehicle and defining the purposes for which the holders of such licences may use motor vehicles on public roads;

(4) providing for the proper recording of particulars supplied as aforesaid, and for the cancellation of the certificate of registration or of the annual licence issued in respect of any motor vehicle or trailer if default is made in furnishing any particulars required as aforesaid;

(5) providing for the issue of marks, tokens or devices to denote the registration or the annual licensing of motor vehicles and trailers and regulating and compelling the affixing of such marks, tokens and devices and prescribing the charges to be made therefor and prescribing the particulars to be marked on motor vehicles and trailers and providing for special marks, tokens or devices to be affixed in the prescribed manner to motor vehicles ordinarily used by registered medical practitioners when carrying out their professional duties; and, subject to the prescribed conditions which may include the charging of a fee for the granting of such a privilege for enabling local authorities by by-law to exempt such last-mentioned motor vehicles from the provisions of any specific traffic or parking by-laws while exhibiting any such special marks, tokens or devices;

(6) prescribing forms of application, certificates of registration, licences, registers and other forms that may be required for the purposes of this Ordinance and requiring registering authorities to make the prescribed returns in respect of motor vehicles registered with them and for making any particulars contained in any register available for use by prescribed persons;

(7) providing for minimizing the noise and the issue of smoke or fumes from and prohibiting nuisances caused by the working of motor vehicles and prohibiting the use on public roads of motor vehicles or trailers which cause excessive noise due to defect, lack of repair or faulty adjustment or faulty packing of loads on such vehicles or vehicles drawn thereby;

(8) (a) restricting or prohibiting the use of motor vehicles and trailers that owing to defects of construction or disrepair, are unsuitable for safe use or may cause undue damage to public roads;

(b) prohibiting the use on public roads of any motor vehicle which is fitted with a steering apparatus on the left side (*i.e.* on the near side) unless such vehicle is provided with an apparatus to enable the driver thereof efficiently to signal his intention to stop or change direction;

(9) (a) subject to the provisions of section *twenty-nine* for the erection and maintenance of warning signs on public roads and uniform signs and notices for the guidance of road users requiring local or road authorities to erect and maintain warning signs or notices denoting limits of speed and dangerous places and prescribing the size, shape, design, lettering and colour of such signs or notices, the materials of which they shall be made and the manner in which they shall be erected, and prohibited advertising on such signs or notices;

(b) authorizing local authorities to erect parking and other traffic signs of a local character and prescribing the shape and colour thereof;

(10) (a) prescribing the number and kinds of lamps that may be carried on motor vehicles and trailers requiring the carrying of such lamps, prescribing how and when the same shall be used, restricting the movement of lamps while motor vehicles are in motion, and prohibiting the use of any lamp or lighting device that embodies such features or combination of features as are in the opinion of the Administrator inimical to public safety and prohibiting the use of any search-light known as "the spotlight";

(b) requiring or permitting distinctive lamps to be carried displaying lights of such colour and used under such conditions as may be prescribed in the cases of certain specified classes of motor vehicles and where distinctive lamps are so required or permitted, prohibiting similar lamps being carried by any other motor vehicles;

(c) prescribing either generally or in respect of specified areas or public roads the conditions subject to which lamps carried on motor vehicles may be used and such conditions may include conditions as to the angles at which beams of light may be projected, the height, width and range of illumination (to be ascertained in accordance with the regulations) of such beams of light, the extent and method of obscuration to be employed and the position on the vehicle of any lamp;

(d) permitting the use of lamps designed in case of mist and of movable or detachable lamps designed for purposes of engine inspection and roadside repairs or for any other purpose and for carrying and use of such lamps in conformity with such conditions as may be prescribed in addition to any lamps which are required or permitted to be carried;

(11) (a) regulating the attaching and use of bells, whistles, horns, alarms, reflectors, direction-indicators, or other instruments for giving notice of the approach, position or course of motor vehicles, and prohibiting the use on stationary motor vehicles of any instrument provided for purposes of giving audible warning except when such use is necessary on grounds of safety;

(b) prescribing the kinds of bells, alarms, or other instruments of warning to be used on different classes of motor vehicles and prohibiting the use on any other class of motor vehicle of any bell, alarm or other instrument of warning of a kind prescribed for use on a particular class of motor vehicle;

(12) for the protection of roads, causeways and bridges and prohibiting and restricting by notices the use of bridges by motor vehicles and trailers of weight and axle weights greater than such as may be specified in such notices and having unsuitable wheels;

(13) (a) With respect to the diameter of wheels, and the width, nature and condition of tyres of motor vehicles and trailers, the consumption of smoke, the emission of visible vapour and sparks, and otherwise with respect to the construction and use of motor vehicles and trailers;

(b) prescribing the maximum weight unladen of heavy locomotives and heavy motor cars, the maximum width, height and length of motor vehicles and trailers and the weight laden of motor vehicles and trailers and as to axle weights of, and the loads and the height of loads which may be carried by motor vehicles and trailers and the manner in which motor vehicles and trailers may be loaded and as to the maximum weight to be transmitted to the road or any specified area thereof by a motor vehicle or trailer of any class or description or by any part or parts of such a vehicle or trailer in contact with the road and the conditions under which the weights may be required to be tested, requiring owners to have their motor vehicles or trailers weighed unladen on weighbridges or weighing machines provided that the distance from the place where such motor vehicles and trailers are usually kept to the weighbridge or weighing machine is not greater than three miles;

(c) prescribing the number of persons who shall be employed in driving or attending certain specified classes of motor vehicles and motor vehicles drawing one or more trailers;

(d) prescribing the number of trailers which may be drawn by a motor vehicle and regulating the towing of one motor vehicle by another, and for prohibiting the operation of any motor vehicle which is being used to tow trailers if the combined length of motor vehicle and trailers exceeds a prescribed limit;

(e) regulating and prescribing the number and nature of brakes, the affixing of efficient brakes and for securing that brakes, silencers and steering gear shall be efficient and kept in proper working order, and for the testing and inspection thereof whether on a public road or elsewhere and the fees to be charged for such inspection and for prohibiting any cut-out, fitting or other apparatus or device rendering it possible to open the exhaust of a motor vehicle;

(f) compelling the provision of an efficient spark arrestor;

(g) regulating pillion riding on two-wheeled motor cycles, restricting the number of persons in addition to the driver who may be carried on such motor cycles and as to the manner in which such persons may be so carried, and for compelling the provision of suitable footrests on such motor cycles used or intended to be used for pillion riding;

(g)bis restricting, regulating and controlling—

(i) the goods which may be carried in certain types of motor vehicles specified in such regulations, the weight of such goods and the manner of carriage thereof,

(ii) the number of persons who may be carried in certain types of motor vehicles specified in such regulations—

(a) in the front seat or seats of such motor vehicles,

(b) in or on any part of such motor vehicles.

(h) restricting subject to the provisions of section *thirty* of this Ordinance the speed at which motor vehicles may be driven;

- (i) prescribing the duties of drivers of motor vehicles when meeting restive animals;
- (j) prescribing the methods to be used and the appliances to be fitted for signalling the approach of a motor vehicle, or enabling the driver of a motor vehicle to become aware of the approach of another vehicle from the rear, and for intimating the intended movement of a motor vehicle or for securing safety and for securing that such appliances shall be efficient and kept in proper working order, and for the testing and inspection thereof whether on a public road or elsewhere;
- (k) authorizing, subject to such restrictions as the Administrator may consider necessary, the use on public roads of special motor vehicles or trailers, or special types of motor vehicles or trailers, which do not comply with general regulations, and which may be constructed either for special purposes or for tests or trials, and of new and improved types of motor vehicles or trailers, whether wheeled or wheelless;
- (l) compelling drivers of motor vehicles to stop at places where road construction or repair works are being undertaken and to proceed only when authorized so to do by the person in charge of such works;
- (m) prohibiting persons from taking or retaining hold of or getting on to a motor vehicle or trailer while in motion in public roads for the purpose of being drawn or carried thereby;
- (n) prohibiting the leaving of motor vehicles at rest in dangerous positions and the abandoning of such vehicles on public roads;
- (o) regulating the hiring for short periods of motor vehicles;
- (p) generally regulating the use and conduct of motor vehicles or trailers on public roads and bridges, their construction, dimensions, weight and use in respect of either chassis and body or chassis, body and load and prescribing the conditions under which they may be used;
- (14) compelling the use on public service motor vehicles when plying for hire of distinctive marks and prescribing the size, shape, lettering, position, design and colour of such marks;
- (15) prescribing either generally or with respect to any particular district or districts, area or areas or with respect to any particular class or classes of motor vehicles any examinations or other conditions to be complied with by applicants for motor drivers' licences or licences to drive public service motor vehicles, and the conditions under which such licences may be granted;
- (16) (a) providing for the granting of different classes of motor drivers licences or licences to drive public service motor vehicles, and prescribing the effect of licences of each of such classes; prescribing registers to be kept of such licences, providing special facilities for granting licences to persons not resident in the Province and for the communication by registering authorities from the one to the other of particulars of licences and for making any particulars with respect to any persons who are disqualified for holding or obtaining any drivers' licences or whose licences are suspended or endorsed available for use by the police;
- (b) providing for submission by applicants for or holders of drivers' licences of their photographs and for affixing such photographs to drivers' licences;
- (17) prohibiting the carriage of persons as passengers on motor vehicles of specified classes which have been constructed or designed solely or chiefly for the carriage of goods and not for the carriage of passengers and their effects;
- (18) providing for accident statistics and reports and for publishing annually statistical information as to the number, cause and locality of accidents and for compelling submission of reports upon prescribed forms of accidents resulting in injuries or death to any person or damage to property estimated at an extent of twenty-five pounds (£25) or more and requiring drivers involved in such accidents to file supplemental reports in cases where original reports are deemed to be insufficient;
- (19) authorizing local authorities to provide parking facilities on public places or on land and in buildings erected, acquired, adapted or set apart for the purpose with power to compel the use of such facilities and to make charges in connection therewith, provided that the exercise by any local authority of any powers conferred upon it hereunder with respect to the use as a parking place of any part of a public road shall not render it subject to any liability in respect of loss of or damage to any vehicle or the fittings or contents of any vehicle parked in such parking place and provided further that no such charges shall be made in connection with the use of any parking place being a part of a street;
- (20) prohibiting, regulating and restricting motor racing or speed trials on public roads;

(21) framing and issuing directions for the guidance of all users of public roads;

(22) constituting a committee or committees for the purpose of advising the Administrator on any matters connected with the use of motor vehicles and matters incidental thereto and for the conduct of the proceedings of such committee or committees;

(23) prescribing forms of notice to be given for the purposes of this Ordinance;

(24) governing the appointment of registering authorities and defining their areas of jurisdiction;

(25) governing the appointment of inspectors of licences and prescribing their powers and duties and prescribing the powers and duties of police officers;

(26) prescribing fines or other penalties for the breach of any regulations under this Ordinance;

(27) generally making provision for all matters deemed necessary for the due administration of, and for giving full effect to the provisions of this Ordinance.

#### Provisions in Regard to Regulations.

54. (1) The power to make regulations regulating motor traffic includes the power to make regulations prohibiting such traffic, either absolutely or conditionally, on any specified public road.

(2) Any regulations under the preceding section may apply generally throughout the Province or within any specified part or parts thereof and may apply to all motor vehicles or to any specified class or classes of motor vehicles, and may from time to time be applied by the Administrator, by notice in the *Provincial Gazette* to any part of the Province or to any class of motor vehicles.

(3) The operation of any regulations published as aforesaid may, if so provided therein, be wholly suspended until they are applied by the Administrator by notice pursuant to the last preceding sub-section.

(4) In so far as the by-laws or regulations of any local authority in force in any locality are inconsistent with or repugnant to the provisions of this Ordinance or any regulations made by the Administrator thereunder and in force in the same locality, the by-laws and regulations shall, in so far as they relate to motor vehicles, trailers, motor vehicular traffic and the regulation or public service motor vehicles, be deemed to be subject to the regulations made by the Administrator, notwithstanding that such by-laws or regulations may have been made under some other law.

(5) All regulations made under this Ordinance by the Administrator shall be published in the *Provincial Gazette*.

#### Local Authorities may make By-laws.

\*55. Any local authority authorized to make by-laws for its area of jurisdiction may, subject to the provisions of any law under which it is so authorized, make by-laws for all or any of the following purposes, namely—

(1) the prohibition, restriction, regulation and control of the use of any public road by motor vehicles and trailers generally or by any particular class of motor vehicles for the purpose of controlling traffic; provided that whenever it is desired to regulate and control such use of a public road or any portion thereof by fixing places where motor vehicles must come to a stop before proceeding further effect may be given to such regulation and control by stop signs posted on such road or portion thereof in a conspicuous manner by orders passed by resolution of the local authority but without publication other than by means of such stop signs.

(2) the prohibition, restriction, regulation and control of the parking of motor vehicles or trailers in any public road, or any portion thereof, and the giving effect to such prohibition, restriction, regulation or control by orders made by notices and signs posted in or placed on any such road or portion thereof. Such orders shall be passed by resolution of the local authority but shall not require to be published in any manner other than by means of the said notices and signs;

(3) (a) the appointment and licensing of parking attendants, the revocation of such licences, and the charging of fees for such licences;

(b) the appointment of temporary traffic guards or signallers under the control and for the assistance of the police on special or seasonal occasions for the purposes of the control of traffic;

(4) the regulation, supervision and control of parking places and of the use thereof and the payment of charges for the services of parking attendants and the definition of the vehicles or class of vehicles which may be entitled

\* As amended by Ordinances Nos. 19 of 1933, 22 of 1940, 23 of 1940, 22 of 1941, and 12 of 1942.

to use any such parking places and the conditions upon which any such parking places may be used and the prescribing of the charges to be paid to the local authority in connection with the use of any parking place not being part of a street;

(5) prohibiting drivers and conductors of vehicles or any persons employed in connection therewith to ply for hire or to accept passengers for hire while such vehicles are within a parking place;

(6) regulating, controlling, restricting or prohibiting the use of stands and stopping places prescribed in terms of sub-section (1) of section *forty-nine*.

(7) prescribing public roads which are not to be used by motor vehicles of any specified class or classes either generally or at specified times;

(8) regulating the relative position in the roadway of traffic of differing speeds and types;

(9) prescribing the places where motor vehicles or motor vehicles of any particular class or description may not turn so as to face in the opposite direction to that in which they were proceeding, or where they may only so turn under conditions prescribed by regulations;

(10) prescribing the conditions subject to which and the times at which articles may be loaded on to or unloaded from motor vehicles or trailers or motor vehicles of any particular class or description on any public road;

(11) prescribing rules to be observed as to procedure between motor vehicles proceeding in the same direction or in opposite direction or when crossing;

(12) prescribing rules as to priority of entry of public service motor vehicles including tramcars into any main thoroughfare;

(13) enabling any police or local authority in the event of any person failing to do anything which under the by-laws he ought to have done, to do such act and to recover the expenses thereof from the person so in default summarily as a civil debt;

(14) prescribing and establishing automatic traffic signallers, for use by day and/or night, to regulate traffic at such points as it may deem fit; failure to comply with the direction of such signallers to constitute an offence under this Ordinance;

(15) providing anything to the contrary in any law contained notwithstanding for the parking of motor vehicles within thirty feet of a street lamp after sunset and before sunrise without having its lights switched on;

(16) the appointment of an advisory traffic control board consisting of not less than three members to advise the local authority on all questions of traffic control;

(17) the appointment of inspectors of licences and prescribing their powers and duties;

(18) The regulation, supervision or restriction of the use of motor vehicles plying for hire and for the licensing of such motor vehicles and of the drivers of such motor vehicles, provided that—

(a) if such a by-law which is in force in the area of jurisdiction of any local authority, prohibits the use in that area of any motor vehicle of a particular class for the conveyance of persons for reward, unless that motor vehicle is licensed under such a by-law, the holder of a motor carrier certificate as defined in section *one* of the Motor Carrier Transportation Act, 1930 (Act No. 39 of 1930) or of an exemption mentioned in section *nine* of that Act, which relates to such a motor vehicle, shall be entitled to obtain such a licence on payment of the fee prescribed therefor;

(b) if such a by-law which is in force in the area of jurisdiction of any local authority prohibits any person from driving such a motor vehicle in that area unless he holds a licence issued under such a by-law, the person or authority entrusted with the issue of such licences shall not refuse to issue such a licence to the holder of such a certificate or exemption as aforesaid which relates to such a motor vehicle, or to his employee, on the ground that there is already a sufficient number of drivers of such vehicles in the area in question or on the ground that the applicant for the licence does not reside in that area;

(c) if any provision of such a by-law which is in force in the area of jurisdiction of any local authority or any action taken under such a by-law is inconsistent with any provision in such a certificate or exemption as aforesaid, the latter provision shall prevail.

(19) the prohibition of drivers of motor vehicles from using or causing or permitting to be used in an area or areas specified by such local authority the warning devices with which their motor vehicles are equipped; provided that in the case of emergency where the driver acts with the object of

avoiding an accident the use in an area so specified of the warning device with which his motor vehicles is equipped shall not constitute an offence.

**Provisions as to By-laws and Penalties Thereunder.**

56. (a) Any by-law made under the preceding section may provide a fine or other penalties for any breach thereof, and may also provide for different fines or other penalties for any breach thereof, and may also provide for different fines or other penalties in case of successive or continuous breaches, but no fine shall exceed fifty pounds.

(b) All fines or other moneys payable in respect of any offences against any by-laws hereunder may be recovered before any court of competent jurisdiction.

(c) Whenever any fine shall have been imposed under the provisions of any by-law and the person convicted shall not forthwith pay the same, the court imposing the fine may direct that such person be imprisoned with or without hard labour for a period not exceeding one month, if the fine imposed does not exceed five pounds, or for a period not exceeding three months if the fine imposed exceed five pounds, and such person shall be imprisoned as aforesaid unless he shall sooner pay such fine.

**Cost of Publication of By-laws.**

57. The provisions of section *one hundred and two* of the Local Government Ordinance, 1926, or any amendment thereof governing the payment of the cost of the publication of by-laws in the *Provincial Gazette* shall apply *mutatis mutandis* to the cost of publishing by-laws made by local authorities under this Ordinance.

**Administrator may make Regulations for Health Committees.**

58. (1) The Administrator may from time to time make regulations for any health committee on any or all of the matters in respect of which a local authority is authorized under this Ordinance to make by-laws provided that all such regulations shall be published in the *Provincial Gazette*.

(2) The provisions of section *fifty-six* of this Ordinance shall apply *mutatis mutandis* to any regulations made under this section.

**Licences Issued Prior to Commencement of this Ordinance to Remain in Force.**

59. (1) Any licence to drive a motor vehicle within the Province, granted to any person prior to the commencement of this Ordinance, shall be deemed to be a licence issued under the provisions of this Ordinance.

(2) Every motor vehicle registered and licensed in the Province prior to the commencement of this Ordinance shall be deemed to have been registered and licensed under the provisions of this Ordinance and every such registration and licence shall subject to the provisions of this Ordinance remain in force during the currency thereof.

**Savings.**

60. All proclamations, notices, regulations, and by-laws issued or framed under the provisions of any law repealed by this Ordinance shall if not inconsistent with the provisions thereof remain in force until revoked or altered under the provisions of this Ordinance.

**Repeal.**

\*61. (1) The laws mentioned in the Fourth Schedule hereto shall be and are hereby repealed to the extent set forth in the third column of that schedule.

(2) Sub-sections (75), (77), (78), and (80) of section *eighty* and sections *ninety-two* and *ninety-four* of the Local Government Ordinance, 1926, in so far as they relate to the registering and licensing of motor vehicles and the drivers thereof and the licensing of trailers and all other laws, by-laws, and regulations repugnant to or inconsistent with the provisions of this Ordinance shall be and are hereby repealed.

(3)—*Deleted by Ordinance No. 23 of 1940.*

**Binding of the Crown.**

†62. Save as is otherwise expressly provided herein, this Ordinance and the regulations made thereunder and any by-laws made under section *fifty-five* of this Ordinance shall bind the Crown and all persons in the service of the Crown: Provided, however, that the Administrator may, by proclamation in the *Provincial Gazette*, exempt from the provisions of this Ordinance and the regulations made thereunder, and any by-laws made under section *fifty-five*, or from any of such provisions, the Government of the Union of South Africa or any repartment or departments thereof (including the Railways and Harbours Administration) either wholly or in respect of any specified class or classes of vehicles or vehicles used for any specified purpose or purposes. Any exemption so granted may include to the extent which may be specified

\* As amended by Ordinance No. 19 of 1933.

† As substituted by Ordinance No. 22 of 1940.



in such proclamation the drivers of or other persons employed in or about such vehicle or vehicles so specified as aforesaid belonging to the said Government in any such department when acting in the course of and within the scope of their employment.

Any such proclamation may be revoked or amended by the Administrator by further proclamation.

#### Short Title.

63. This Ordinance may be cited for all purposes as the Motor Vehicle Ordinance, 1931, and shall come into operation on such date as may be fixed by the Administrator by proclamation in the *Provincial Gazette* save that all appointments, proclamations, notices, or regulations authorized by this Ordinance may be made or issued at any time after the promulgation hereof as far as may be necessary or expedient for the purpose of bringing this Ordinance into operation.

#### FIRST SCHEDULE.

(As amended by Ordinance Nos. 19 of 1933, 16 of 1938, 22 of 1940 and 3 of 1943.)

##### PART I.

###### *Fees Payable for Registration.*

	£	s.
(1) On the registration of a motor-cycle.....	0	10
(2) On the registration of a motor-car a fee of.....	1	0
(3) On the registration of any other motor vehicle a fee of.....	1	10
(4) In respect of any year the licence for which has not been renewed by the 30th day of June of that year.....	2	0
(5) On the registration of a trailer.....	0	10

##### PART II.

###### *Fees Payable for Annual Licences.*

(1) For every motor-cycle.....	1	0	0
(2) For every motor-cycle with sidecar or similar attachment.....	1	10	0
(3) For every motor vehicle up to a weight not exceeding 3,000 lb.;—			
(a) not exceeding 1,500 lb. in weight.....	4	0	0
(b) exceeding 1,500 lb., but not exceeding 3,000 lb., for every 500 lb. or part thereof and additional.....	1	0	0
(4) For every motor vehicle over 3,000 lb. in weight—			
(a) for the first 3,000 lb.....	7	0	0
(b) for every 500 lb. or part thereof in excess of 3,000 lb., but not exceeding 6,000 lb., an additional.....	1	0	0
(c) for every 500 lb. or part thereof in excess of 6,000 lb., but not exceeding 8,000 lb., an additional.....	1	10	0
(d) for every 500 lb. or part thereof in excess of 8,000 lb., but not exceeding 10,000 lb., an additional.....	2	0	0
(e) for every 500 lb. or part thereof in excess of 10,000 lb., but not exceeding 12,000 lb., an additional.....	2	10	0
(f) for every 500 lb. or part thereof in excess of 12,000 lb., an additional.....	3	0	0
(5) For every trailer fitted with rubber tyres or "Athey" or similar wheels and used or intended to be used on public roads by any person in the course or for the purposes of his business or trade.....	10	0	0
(6) For every trailer used on intended to be used as aforesaid and fitted with metal tyres.....	25	0	0
(7) For every trailer used for purposes other than for the purposes described in item (5) hereof, fitted with rubber tyres and used or intended to be used as an attachment to a motor-car.....	1	0	0

Provided that—

- (a) in respect of a motor vehicle which is propelled by steam, the maximum fee payable shall, subject to the provisions of proviso (c) in this schedule, be £50;
- (b) the fee payable in respect of a motor vehicle of the "caterpillar" or similar type shall in the case of (i) a vehicle operating solely on a "caterpillar" or similar track be one-half of the rate applicable and (ii) a vehicle operating on a semi-"caterpillar" or similar track be two-thirds of the rate applicable;
- (c) in respect of a motor vehicle of a type other than that mentioned in (b) in this proviso if the vehicle has all or any of its wheels fitted with metal tyres, the fees shall be at the rate applicable together with an additional 50 per cent.; with effect from the 1st January, 1933;
- (d) in respect of a trailer as described in item (6) used solely on roads other than public roads the fee payable shall be £12. 10s.

In this schedule "weight" means the weight of the vehicle without passengers or load, but including the lubricants, buffers, accessories, and tools usually carried.

##### PART III.

###### *Exemptions from Registration Fees and Annual Licence Fees.*

(1) (a) Motor vehicles and trailers owned by the Government of the Union of South Africa or by the Provincial Administration, motor vehicles and trailers owned by Consuls de Carriere and Trade Commissioners de Carriere provided such officials are not ordinarily resident in the Union of South Africa and have no occupation apart from their official duties, † or motor vehicles and trailers owned by a local or public authority, and also motor vehicles and trailers used exclusively for purposes of a public nature and declared to be exempt by ‡ regulations under this Ordinance.

(b) Ambulances owned as aforesaid and also by any person or body controlling and managing a hospital or public hospital as defined in section two of the Public Hospitals Ordinance, 1923, or any amendment thereof.

(2) Tractors used mainly for agricultural, horticultural, viticultural, pastoral, or other like pursuits provided that such tractors are not generally used on public roads.

(3) Tractors and trailers used exclusively for the transport of the produce of the owners of such tractors and trailers: Provided that such tractors and trailers are rubber-tyred.

PART IV.

Fees for Drivers' Licences.

	£ s. d.
(1) If the motor vehicle be a motor-cycle or a motor-cycle with a side-car.....	0 5 0
(2) Any other motor vehicle.....	0 10 0

SECOND SCHEDULE.

[Repealed by Ordinance No. 16 of 1938, which came into operation on 6th July, 1938.]

THIRD SCHEDULE.

(As amended by Ordinance No. 22 of 1940).

SECTION THIRTY.

For the purposes of this Schedule—

- “Articulated motor vehicle” means a vehicle which comprises a motor tractor to which a trailer has been securely fastened in such a manner that only the rear wheels of such trailer come into contact with the road surface;
- “heavy locomotives” means mechanically propelled vehicles which are not constructed themselves to carry any load (other than the following articles, that is to say, water, fuel, accumulator) and other equipment used for the purpose of propulsion, loose tools, and loose equipments and the weight of which unladen exceeds 25,000 lb.;
- “light locomotives” means mechanically propelled vehicles which are not constructed themselves to carry any load (other than the articles aforesaid) and the weight of which unladen does not exceed 25,000 lb., but does exceed 16,200 lb.;
- “motor tractors” means mechanically propelled vehicles which are not constructed themselves to carry any load (other than the articles aforesaid) and the weight of which unladen does not exceed 16,200 lb.;
- “heavy motor cars” means mechanically propelled vehicles (not being motor cars as defined in section one of this Ordinance) which are constructed themselves to carry a load or passengers and the weight of which unladen exceeds 5,600 lb.;
- “motor cars” means mechanically propelled vehicles (not being motor cycles or invalid carriages) which are constructed themselves to carry a load or passengers and the weight of which unladen does not exceed the following, that is to say—
  - (i) in the case of vehicles constructed solely for the carriage of passengers and their effects if the number of passengers they are adapted to carry (exclusive of the driver) does not exceed eight and the tyres with which they are fitted are of the prescribed type, 6,720 lb.;
  - (ii) in any other case, 5,600 lb.;
- “motor cycles” means mechanically propelled vehicles (not being invalid carriages) with less than four wheels the weight of which unladen does not exceed 900 lb.;
- “Invalid carriages” means mechanically propelled vehicles the weight of which unladen does not exceed 560 lb. and which are specially designed and constructed, and not merely adapted, for the use of persons suffering from some physical defect or disability and are used solely by such persons.

SPEED LIMITS.

<i>Class of Vehicle.</i>	<i>Maximum speed.—miles per hour.</i>
1. <i>Heavy Locomotives.</i>	
(a) Within any city, town, or village.....	5
(b) Elsewhere.....	8
2. <i>Light Locomotives.</i>	
(a) When not drawing a trailer; or when drawing not more than two trailers all wheels of both the locomotive and any trailer drawn thereby being fitted with soft or elastic tyres.....	8
(b) In any other case.....	5
3. <i>Heavy Motor Cars and Motor Tractors.</i>	
(1) <i>Passenger Vehicles.</i>	
(a) If all wheels fitted with pneumatic tyres and not drawing trailer....	35
(b) In any other case.....	16
(2) <i>Goods vehicles and motor tractors.</i>	
(i) Without trailer—	
(a) if all wheels fitted with pneumatic tyres.....	20
(b) if all wheels fitted with soft elastic tyres, some of which are not pneumatic.....	16
(ii) With trailer—	
(a) if all wheels, both the drawing vehicle and of the trailer, are fitted with pneumatic tyres.....	16
(b) if all tyres, both of the drawing vehicle and of the trailer, are of soft or elastic material, some of which are not pneumatic..	12
(iii) Articulated motor vehicles of which all wheels are fitted with pneumatic tyres and on which brakes operable by the driver are provided on at least four wheels—	
(a) if the motor tractor has one front wheel.....	25
(b) if the motor tractor has two front wheels.....	30
(iv) In any other case.....	5
4. <i>Motor Cars and Motor Cycles.</i>	
(1) <i>Passenger Vehicles.</i>	
(a) If all wheels fitted with pneumatic tyres, not drawing trailer, and constructed to carry not more than eight persons (in addition to the driver).....	No limit.
(b) If all wheels fitted with pneumatic tyres, not drawing trailer, and constructed to carry more than eight persons (in addition to the driver)	35
(c) In any other cases.....	20
(2) <i>Goods Vehicles.</i>	
(i) Without trailer—	
(a) if all wheels fitted with pneumatic tyres.....	30
(b) if all wheels fitted with soft or elastic tyres, some of which are not pneumatic.....	20
(ii) With trailer—	
(a) if all wheels, both of the drawing vehicle and of the trailer, are fitted with pneumatic tyres.....	16
(b) if all tyres, both of the drawing vehicles and of the trailer, are of soft or elastic material, some of which are not pneumatic..	12
(iii) In any other case.....	5
5. <i>Invalid carriages.</i>	16

For the purposes of the above schedule and of speed regulation, whenever a vehicle is constructed to carry both goods and passengers, it shall be classed as a goods-carrying vehicle.

FOURTH SCHEDULE.  
LAWS REPEALED.  
SECTION SIXTY-ONE.

Number and Year of Law.	Title or Subject of Law.	Extent of Repeal.
Ordinance No. 6 of 1915	The Motor Vehicle Ordinance, 1915. . . . .	The whole.
Ordinance No. 9 of 1915	The Motor Vehicle Amendment Ordinance, 1915	The whole.
Ordinance No. 2 of 1916	The Motor Vehicle Amendment Ordinance, 1916	The whole.
Ordinance No. 13 of 1923	The Motor Vehicle Amendment Ordinance, 1923	The whole.
Ordinance No. 8 of 1924	The Motor Vehicle Amendment Ordinance, 1924	The whole.
Ordinance No. 7 of 1927	The Motor Vehicle Amendment Ordinance, 1927	The whole.
Ordinance No. 18 of 1927	The Motor Vehicle Further Amendment Ordinance, 1927	The whole.
Ordinance No. 19 of 1927	The Roads Fund Ordinance, 1927. . . . .	Sections six and seven.
Ordinance No. 3 of 1928	The Motor Vehicle Amendment Ordinance, 1928	The whole.
Ordinance No. 14 of 1928	The Roads Fund Amendment Ordinance, 1928	Section three.
Ordinance No. 4 of 1929	The Local Government Amendment Ordinance, 1929	Sub-section (3) of Section five.
Ordinance No. 6 o 1929	The Motor Vehicle Amendment Ordinance, 1929	The whole.
Ordinance No. 15 of 1930	The Local Government Amendment Ordinance, 1930	Sub-section (2) of Section nine.

**Ordinance No. 18 of 1931.—Wheel Tax.**—(*Repealed by Ordinance No. 5 of 1936*).

**No. 19 of 1931.]**

[Assented to 19th October, 1931.]

## ORDINANCE

**To Provide for the Imposition of a Tax Based on Charges for Admission to Places of Entertainment.**

(*Date of operation 1st December 1931.*)

(*English copy signed by Governor-General.*)

BE IT ENACTED by the Provincial Council of Transvaal as follows:—

**Definitions.**

1. In this Ordinance unless some other meaning is clearly intended—

“Administrator” means the officer appointed under sub-section (1) of section sixty-eight of the South Africa Act, 1909, and any amendment thereof acting on the advice and with the consent of the Executive Committee of the Province;

“Administration” means the Transvaal Provincial Administration;

“admission” means admission on payment as a spectator or one of an audience to any place in which the entertainment is held and includes any payment made by a person who, having been admitted to one part of a place of entertainment, is subsequently admitted to another part thereof involving payment of increased tax;

“commencement of this Ordinance” means the date on which this Ordinance came into operation;

“Commissioner” means the Commissioner for Inland Revenue or any other officer appointed by him to carry out any duties placed upon the Commissioner of Inland Revenue under this Ordinance;

“entertainment” means and includes any operatic or dramatic performance, dance, ball, concert, recital, lecture, display, show, circus, bioscope or cinematograph, skating, boxing, wrestling or endurance competition, dirt track race, contest, regatta, sports, processions and any other exhibition including bioscope or cinematograph performance, amusement, pastime, recreation, game or competition to which the right of admission is offered to any person in return for the payment of a fee or upon production of some token of such fee or any subscription having been paid; provided that no game, contest, competition, exhibition or form of sport for which no money prize or stake is awarded and which is organized and conducted by persons or an association of persons who as individuals derive no pecuniary profit or gain therefrom shall be included under the meaning herein assigned to “entertainment”. The term “entertainment” shall also include horse or other racing excepting horse races held on a race course as defined in The Admission to Race Courses (Taxation) Ordinance 1917 or any amendment thereof;

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

“member of the staff” means any person who is employed at any place of entertainment;

“police officer” means an officer or constable of a police force established by law or any body of persons carrying out under any law the powers, duties and functions of a police force in the Union;

“place of entertainment” means and includes any hall, room, tent, enclosure, theatre, balcony, vehicle or other place to which in return for the payment of a fee or subscription or upon the presentation of some token of such fee or subscription having been paid the right of admission is offered to any person in order that he may witness or be present at any entertainment, and shall further include a course or enclosure used for any description of racing excepting a race course as defined in the Admission to Race Courses (Taxation) Ordinance, 1917, or any amendment thereof;

“performer” means any person who is employed to act or take part in any entertainment at a place of entertainment;

“prescribed” means prescribed by regulation made under this Ordinance;

“promoter” or “proprietor” in relation to any entertainment means and includes the proprietor, lessee or person having charge of any place or places of amusement or entertainment or the person responsible for the management thereof;

“receiver of revenue or revenue officer” means any Receiver of Revenue or any other officer acting as the authorized collector of Inland Revenue for any area and shall include any person lawfully acting in that capacity or on his behalf;

“stamp” means and includes any mark denoting the amount of the tax payable;

“ticket or token” includes any carboard or other material upon production of which any person is admitted to a place of entertainment.

#### Tax Imposed.

\*2. Subject to the exemptions hereinafter provided for there shall be charged, levied and paid from and after the commencement of this Ordinance for the benefit of the Provincial Revenue Fund on all payments for admission of every person who is admitted to any place of entertainment a tax at the following rates, namely:—

Where the payment, excluding the tax:

Exceeds 6d. and does not exceed 1s.: One penny.

Exceeds 1s. and does not exceed 2s.: Threepence.

Exceeds 2s. and does not exceed 3s.: Sixpence.

Exceeds 3s. and does not exceed 4s.: Sevenpence.

Exceeds 4s. and does not exceed 5s.: Ninepence.

Exceeds 5s. and does not exceed 7s. 6d.: One shilling.

Exceeds 7s. 6d. and does not exceed 10s.: One shilling and sixpence.

Exceeds 10s. and does not exceed 12s. 6d.: One shilling and ninepence.

Exceeds 12s. 6d.: Two shillings and sixpence for the first 12s. 6d. and two shillings for every 10s. or part thereof over 12s. 6d.

3.—*Repealed by section two of Ordinance No. 6 of 1936.*

#### Admission to Entertainments.

4. (1) From and after the commencement of this Ordinance no person other than a member of the staff or a performer shall be granted admission to any place of entertainment where the payment for admission to such entertainment is subject to the tax except—

(a) with a ticket indicating the admission fee and stamped with a stamp (not before used) denoting that the tax prescribed by this Ordinance has been paid; or

(b) in special cases with the approval of the Commissioner through a barrier which indicates and controls the number of persons admitted, or upon a ticket issued by means of a mechanical contrivance which automatically registers the number of admission tickets issued; unless the promoter has made arrangements approved by the Commissioner for furnishing returns of the payments for admission to a place or places of entertainment and has given security up to an amount and in a manner approved by the Commissioner for the payment of the tax imposed by this Ordinance.

If any person is admitted to any place of entertainment contrary to the provisions of this section, the person admitted as well as the promoter shall be guilty of an offence and on conviction shall be liable in respect of each offence to a fine in the case of the person admitted of not exceeding £5 or in default of payment to imprisonment for a period not exceeding fourteen days, and in

\* As amended by section one of Ordinance No. 15 of 1940.

the case of the promoter of not exceeding fifty pounds or in default of payment to imprisonment for a period not exceeding three months.

The promoter shall, in addition, be liable to pay the tax which should have been paid.

(2) Subject to the provision of sub-section (3) of this section, the tax shall be payable in respect of each person admitted to any place of entertainment, and in the case of admission otherwise than by stamped ticket, shall be calculated and paid on the number of admissions.

(3) Wherever, owing to the nature of the entertainment or of the place in which the entertainment is given, the collection of the tax by either of the methods mentioned in paragraphs (a) and (b) of sub-section (1) of this section is impracticable, the Commissioner may authorize the payment of the tax in a lump sum on the gross takings. In such cases the amount of the tax shall be fifteen per cent. of the gross takings. For the purpose of the assessment of the tax payable the promoter shall furnish to the Commissioner such returns as may be prescribed.

#### **Who Liable to Pay Tax.**

5. The tax shall be paid by or on behalf of each person admitted to a place of entertainment and shall be recoverable from the promoter.

#### **When Payment is made in a Lump Sum.**

6. Where the payment for admission to a place of entertainment is made by means of a lump sum paid as or in the form of a subscription or contribution to any club, association or society or for a season ticket or for the right of admission to a series of entertainments during a certain period of time the tax shall be paid on the amount of the lump sum, but where the Commissioner is of opinion that the payment of a lump sum or any payment represents payment for other privileges, rights or purposes besides the admission to any place of entertainment or covers admission to any place of entertainment during any period for which the tax has not been in operation, the tax shall be charged on such amount as appears to the Commissioner to represent the right of admission to places of entertainment in respect of which the tax is payable.

#### **Tax How Denoted.**

7. The tax by this Ordinance imposed may be denoted by means of an adhesive stamp or by a stamp impressed or embossed on the ticket of admission or by such other means as may be prescribed.

#### **Penalty for Selling Unstamped Tickets.**

8. Any promoter or person who—

(1) sells or attempts to sell or has in his possession for the purpose of sale any ticket which does not bear a stamp or other mark denoting the tax payable by the purchaser of such ticket; or

(2) issues or delivers any ticket to any other person or takes payment for a ticket from any other person without obtaining payment of the tax payable; or

(3) admits any person (not being a member of the staff or a performer) to any entertainment upon a ticket in respect of which the tax has not been paid;

shall be guilty of an offence and liable on conviction to a fine in the case of the promoter of £50 or in default of payment to imprisonment for a period not exceeding six months; and in the case of any other person not exceeding £10 or in default of payment to imprisonment for a period not exceeding one month.

The promoter shall in addition be liable to pay the tax which should have been paid.

#### **Penalty for Non-Payment of Tax.**

9. Any person who makes use of a ticket of admission, howsoever obtained, on which the tax imposed by this Ordinance has not been paid, shall be guilty of an offence and liable on conviction to a fine not exceeding £50 or in default of payment to imprisonment for a period not exceeding three months.

#### **Penalty for Using Unauthorised Stamps.**

10. Any person who, for the purpose of stamping any ticket, uses or supplies or offers to supply any stamp other than a stamp supplied by the Commissioner for the purpose, or who uses a stamp which had been previously used shall be guilty of an offence and liable on conviction to a fine of £100 or in default of payment to imprisonment for a period of six months.

Nothing in this section contained shall be deemed to exempt any person from any other penalty, civil or criminal, to which he may be liable under any other law in respect of any offence such as is described in this section.

**Special Exemptions.**

11. (1) Notwithstanding anything hereinbefore in this Ordinance contained it shall be competent for the Administrator upon application made to him to exempt the promoter of any entertainment from payment of the tax imposed by section *two* in respect of the following classes of entertainment:—

(i) entertainments, the proceeds whereof after deducting reasonable expenses are to be devoted wholly to—

- (a) charitable, patriotic, philanthropic or religious purposes;
- (b) educational purposes;

(ii) entertainments intended only for the entertainment of children where the charge for admission does not exceed one penny for each person;

(iii) entertainments provided for partly educational or partly scientific or literary purposes by a society, institution or committee not conducted or established for profit;

(iv) entertainments provided by any society formed for the purpose of promoting agriculture in its various branches, the proceeds whereof, after deducting reasonable expenses, are to be devoted wholly to such society.

(2) Any question arising as to whether the purpose stated on the application is charitable, patriotic, philanthropic, religious, scientific, literary or educational or for the promotion of agriculture shall be determined by the Administrator whose decision shall be final.

(3) The applicant for exemption shall state in his application (which shall reach the Administrator at least four days before the date on which the entertainment is to take place) the following particulars:—

(a) The purpose to which the net proceeds of the entertainment are to be devoted;

(b) an estimate of the amount of expenses to be incurred;

(c) an estimate of the gross receipts.

(4) The exemption, if granted, on such application shall be deemed to be provisional pending compliance with the provisions of the next succeeding sub-section.

(5) The applicant shall within fourteen days after the entertainment has been held transmit to the Administration a return certified by him as correct showing the sum incurred for expenses and the gross amount received from the sale of admission tickets as well as a certificate from the responsible person or persons in charge of or promoting any entertainment for any of the purposes set forth in paragraphs (i), (ii), (iii) or (iv) of sub-section (1) hereof, to the effect that the net proceeds of the entertainment, stating the amount, have been handed over by applicant for the benefit of the specific purpose, society, institution or committee for which such entertainment was promoted and held.

(6) If the Administrator is satisfied from the return so made and the certificate so furnished that the whole of the net proceeds have bona fide been devoted to the purpose stated, the exemption shall *ipso facto* become final; if not so satisfied, or if the applicant should fail to render and to furnish the certificate in the preceding sub-section mentioned, he may order the payment by the applicant of the tax payable in terms of this Ordinance, or such portion thereof as he may deem fit. For ascertaining the amount of tax payable he may call upon the Commissioner to furnish him with an assessment of the amount of tax which should have been paid had no provisional exemption been granted.

**Inspection.**

12. It shall be lawful for any revenue or police officer or any other official duly authorized thereto in writing by the Administrator for the purpose to enter any place of entertainment at any reasonable time with a view to seeing whether the provisions of this Ordinance or any regulations made thereunder are being complied with.

If any person prevents or obstructs the entry of any such officer or official or obstructs him in the execution of his lawful duties he shall be guilty of an offence and liable on conviction to a fine not exceeding £20 or in default of payment to imprisonment for a period not exceeding one month.

**Contravention by Company or Partnership.**

13. In the event of a contravention of this Ordinance or of any regulation framed thereunder by a company or a firm or partnership, any person having the management or apparent management of any place of entertainment in respect of which the contravention took place shall be deemed to be guilty of an offence and shall be liable on conviction to the penalties provided therefor.

**Production of Books, Documents, or Papers.**

14. The Commissioner may call upon any promoter who has made arrangements under the provisions of sub-section (1) (b) of section *four* of this Ordin-

ance to produce for inspection any books, documents or other papers for inspection and any promoter who refuses to produce such books, documents or other papers as aforesaid shall be guilty of an offence against this Ordinance.

#### Penalty for Offences.

15. Any person who is convicted of an offence against this Ordinance or any regulation made thereunder for which no penalty is specifically provided shall be liable on conviction to a fine not exceeding fifty pounds or in default of payment to imprisonment for a period not exceeding six months.

#### Regulations.

16. The Administrator may make regulations for securing the payment of the tax and generally for giving effect to the provisions of this Ordinance and in particular in respect of the following matters:—

(a) For ensuring that no person shall be admitted to any place of entertainment without a ticket of admission and for prescribing the form of such tickets, which may be varied according to the class of entertainment;

(b) for prescribing the means by which the tax imposed by this Ordinance may be denoted and for the supply and use of stamps or stamped tickets and for the stamping of tickets sent to be stamped and for securing the defacement of stamps when used;

(c) for the use of tickets covering the admission of more than one person and the calculation of the tax thereon and for the payment of the tax on the transfer of a person admitted from one class of seat to a higher class;

(d) governing the use of free complimentary tickets and the form in which such tickets may be issued;

(e) for prescribing the forms to be used for any purpose under this Ordinance and for prescribing penalties for the making of false returns;

(f) for ensuring that no stamp shall be defaced, cut, torn or diminished before the ticket to which it is affixed is issued and for prescribing the manner in which such stamps shall be defaced, cut, torn or diminished;

(g) for demanding the production of a ticket from any person during the course of or after any entertainment;

(h) for controlling the use of barriers or mechanical contrivances including the preventing of the use of the same barrier or mechanical contrivance for payment of different admission charges and for securing proper records of admission by means of barriers or mechanical contrivances;

(i) for determining the amounts of and the method of collecting the tax prescribed in section three;

(j) for prescribing the use of season tickets or for tickets authorizing admission during any specified time and the form in which such tickets may be issued;

(2) Regulations made hereunder shall be published in the *Provincial Gazette*.

(3) If any person acts in contravention of any such regulations he shall be guilty of an offence and liable on conviction to a fine not exceeding fifty pounds or in default of payment to imprisonment for a period not exceeding six months.

#### Fees and Penalties to be Paid to Provincial Revenue Fund.

17. All taxes and penalties recovered under the provisions of this Ordinance or the regulation framed thereunder shall be paid into the Provincial Revenue Fund.

#### Recovery of Tax.

18. Any tax imposed under the provisions of this Ordinance shall be a debt due to the Provincial Revenue Fund of Transvaal and may be sued for and recovered by action in any court of competent jurisdiction by the Commissioner suing on behalf of the Administrator.

#### Short Title and Date of Operation.

19. This Ordinance may be cited for all purposes as the Entertainment Tax Ordinance, 1931, and shall come into operation on such date as the Administrator may by proclamation declare.

**No. 20 of 1931.—Local Government Further Amendment.—Repealed by Local Government Ordinance, 1939.**

**No. 21 of 1931.—Charitable Institutions (Control) Amendment.**

Section 1.—Amends section seven of Ordinance No. 5 of 1926.

Section 2.—Short Title.

**No. 22 of 1931.—Public Hospitals Amendment.**

Section 1.—Defines Principal Ordinance (No. 18 of 1928).

Section 2.—Amends section two of the Principal Ordinance.

Section 3.—Substitutes a new sub-section (5) to section ten of the Principal Ordinance.

Section 4.—Amends section eleven of the Principal Ordinance.

- Section 5.—Amends section thirteen of the Principal Ordinance.  
 Section 6.—Amends section seventeen of the Principal Ordinance.  
 Section 7.—Adds after section eighteen of the Principal Ordinance a new section—as printed in the revised Ordinance—exempting members of hospital boards from personal liability.  
 Section 8.—Amends section twenty-six of the Principal Ordinance.  
 Section 9.—Repealed by section seven of Ordinance No. 14 of 1943.  
 Section 10.—Adds a new sub-section (5) to section thirty-one of the Principal Ordinance.  
 Section 11.—Amends section thirty-six of the Principal Ordinance.  
 Section 12.—Amends section forty of the Principal Ordinance.  
 Section 13.—Amends section forty-two of the Principal Ordinance.  
 Section 14.—Amends section forty-six of the Principal Ordinance.  
 Section 15.—Amends section fifty of the Principal Ordinance.  
 Sections 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30 and 31 now embodied in the new Chapter IV of the Principal Ordinance, as substituted by Ordinance No. 14 of 1943.  
 Section 32.—Substitutes a new section eighty-one in the Principal Ordinance.  
 Section 33.—Amends the Second Schedule to the Principal Ordinance.  
 Section 34.—Short Title.  
 No. 1 of 1932.—Appropriation (Part 1932-1933).  
 No. 2 of 1932.—Additional Appropriation (1931-1932).

No. 3 of 1932.]

[Assented to 4th June, 1932.]

## AN ORDINANCE.

To Consolidate and amend the Law relating to control of the issue of certain Trade and Business Licences.

(Passed by the Provincial Council, 6th May, 1931.)

(Date of operation, 8th June, 1932.)

(English copy signed by Governor-General.)

BE IT ENACTED by the Provincial Council of Transvaal as follows:—

**Repeal of Laws.**

1. The laws mentioned in the First Schedule to this Ordinance are hereby repealed.

**Definitions.**

2. In this Ordinance unless some other meaning is clearly intended—

“Administrator” means the officer appointed under section sixty-eight of the South Africa Act 1909, or any amendment thereof, acting on the authority of the Executive Committee of the Province;

“authorized officer” means any officer duly authorized by a local authority or by a board, as the case may be, to sign on its behalf certificates issued by it under this Ordinance;

“board” means the rural licensing board constituted under section three of this Ordinance;

“by-law” means a by-law made by a local authority in accordance with the provisions of Part II of Chapter VII of the Local Government Ordinance, 1926, or any amendment thereof;

“certificate” means the document in the prescribed form granted by a local authority or board, as the case may be, under section seven authorizing the issue of a licence in respect of any of the trades or businesses specified in the Second Schedule to this Ordinance;

“Gazette” means the *Provincial Gazette of the Province of Transvaal*;

“general dealer” means and includes any person who carries on any one or more of the trades or businesses enumerated in the Second Schedule to this Ordinance excepting the business of a hawker or of a pedlar;

“local authority” means a city council, or a town council or a village council constituted under the Local Government Ordinance, 1926, or any amendment thereof;

“magistrate” means a magistrate, assistant magistrate or any officer lawfully acting in such capacity;

“municipality” means the area or district placed under the control and jurisdiction of a local authority;

“person” includes a firm, partnership or company;

“premises” means any premises used or intended to be used for carrying on any of the trades or businesses referred to in the Second Schedule to this Ordinance;

“prescribed” means prescribed by regulation under this Ordinance;

“rural area” means the area or district placed under the jurisdiction of a board;



**Constitution of Rural Licensing Boards.**

3. (1) The Administrator may from time to time by proclamation in the *Gazette*—

(a) constitute for any area outside a municipality a board, to be called a rural licensing board, consisting of a magistrate, who shall be the chairman, and not less than two nor more than four persons provided that no general dealer, as defined in section *two* hereof, or hawker or pedlar shall be appointed to or shall be capable of continuing as a member of any board;

(b) increase, alter or diminish the area of jurisdiction of such board and at any time, on due cause being shown, abolish or disestablish such board,

(2) The rural licensing boards lawfully constituted under the General Dealers (Control) Ordinance, 1926, prior to the commencement of this Ordinance and mentioned in the Third Schedule hereto shall be deemed to be rural licensing boards constituted under this Ordinance.

**Application for Licences to be Accompanied by Certificates and Certificates Issued Prior to Promulgation of this Ordinance.**

4. (1) Save as in section *ten* provided no licence for any of the trades or businesses specified in the Second Schedule hereto shall be issued by a receiver of revenue to any person unless such person produces with his application for such licence a certificate.

(2) Any certificate issued by any local authority or board under any law repealed by this Ordinance shall have no force and effect if a licence was not granted upon such certificate on or before the date of the promulgation of this Ordinance.

**Application for Certificates Procedure.**

5. (1) Any person desiring to obtain any licence as specified in sub-section (1) of section *four* hereof shall apply for a certificate—

(a) in the case of a trade or business situate within a municipality to the local authority; and

(b) in the case of a trade or business situate within a rural area to the board.

(2) Before an application is made such person shall exhibit in a prominent place on the premises in which the business is proposed to be carried on a notice in the prescribed form and during the prescribed period of his intention to apply for such a certificate. The provisions of this sub-section shall not apply to any person desirous of obtaining a licence to trade as a hawker or as a pedlar.

(3) Every applicant for a certificate shall, in making application therefor—  
(a) complete the prescribed form of application so far as it is applicable and pay the prescribed fee; and

(b) if so required by the local authority or by the board concerned furnish a plan, prepared in accordance with prescribed conditions, of the premises at which he proposes to carry on his trade or business.

**Issue of Certificates.**

6. (1) The local authority or the board, as the case may be shall, not later than two months after the receipt of any application as aforesaid grant or refuse a certificate under the provisions of section *seven* hereof.

(2) Any certificate issued in respect of any application under sub-section (3) of the preceding section shall—

(a) specify the premises and the trade name, designation or style and the nature of the trade or business in respect of which it has been issued and the name of the person who will be in actual control of the trade or business;

(b) contain such conditions (if any) as may be endorsed thereon in terms of section *fourteen* hereof;

(c) be signed by an authorized officer.

**Circumstances under which Certificate may be Granted or Refused.**

7. (1) The local authority or board shall within the municipality or the rural area, as the case may be, have a discretion to grant or refuse a certificate.

(2) Where application for a certificate is made to a local authority by or on behalf of any person whose name, premises and particulars of the licences applied for do not appear upon the list for the municipality referred to in section *ten* hereof, no such application shall be considered unless—

(a) the medical officer of health of the local authority or any medical practitioner, approved by the local authority, shall have reported that the premises are fit and suitable for the business proposed to be carried on thereat, and that he knows of no reason why the said certificate should be refused on the ground of public health or otherwise;

(b) the local authority shall have inquired from the senior officer of police for the municipality whether anything is known against the applicant or against the person who will be in actual control of the trade or business which should be brought to the notice of the said local authority.

(3) Where application for a certificate for a licence is made to any board by or on behalf of any person whose name, premises and particulars of the licence applied for do not appear upon the list for the rural area referred to in section *ten* hereof, no such application shall be considered unless the board shall have inquired from the senior officer of police for the area whether anything is known against the applicant or against the person who will be in actual control of the trade or business which should be brought to the notice of the said board.

(4) Where application for a certificate is made to any board by or on behalf of any person whatsoever, the said board may require the applicant to furnish at his own expense a certificate by a medical practitioner approved by the board to the effect that he knows of no person why a certificate should be refused on the ground of public health, before such application is considered or further considered.

(5) Anything to the contrary in this section notwithstanding it shall be lawful for the Administrator, if he is satisfied that any application as in this section mentioned has been refused solely on the ground that there are already a sufficient number of trades or businesses of the class in respect of which the certificate is sought within a particular area, to issue a certificate under the hand of the Provincial Secretary to the applicant therefor, and such certificate shall be regarded for all purposes as a certificate issued by the local authority or board.

#### **Licence to be Taken Out within Certain Period.**

8. Any licence in respect of which a certificate has been obtained in terms of this Ordinance shall be taken out within three months of the date of the granting of the said certificate, unless the said period of three months shall have been extended, on the written application of the applicant, and upon payment of a fee of five shillings, for a further period not exceeding three months, by the local authority or board concerned. If the licence shall not have been taken out on the expiration of the said period or of any extension thereof, as provided in this sub-section, the said certificate shall lapse.

#### **Councillors Interested may not Vote.**

9. (1) The provisions of sub-section (1) of section *forty-one* of the Local Government Ordinance, 1926, or any amendment thereof shall apply *mutatis mutandis* to any proceedings of a local authority relating to applications for certificates or removal certificates under this Ordinance.

(2) If at any time owing to the provisions of sub-section (1) of this section a quorum of members of a local authority or the committee of such local authority to which the powers and duties conferred or imposed upon a local authority by this Ordinance have been delegated in terms of section *twenty-eight* (1) of the Local Government Ordinance, 1926, or any amendment thereof, cannot be obtained to consider any application for a certificate, it shall be lawful for the remaining members of such local authority or committee to deal with such application provided that such remaining members shall consist of not less than three. If the remaining members are less than three, the Administrator may appoint any qualified person or persons to make up such number.

#### **Framing and Keeping of a List.**

10. (1) Upon the promulgation of this Ordinance it shall be the duty of every local authority or board to frame, keep and maintain or cause to be framed, kept and maintained a list containing the names of all persons (including in the case of a firm or partnership the names of all the members thereof) then lawfully trading (under licences duly issued) as general dealers (as defined in section *two* hereof) within the municipality or rural area, as the case may be, and a description sufficient for the purpose of identification of the various premises at which such persons are so trading and the nature of the trade or business.

(2) Thereafter it shall be the duty of every local authority or board to add to the said list the name of every duly licensed person (including in the case of a firm or partnership the names of all the members thereof) who having obtained a certificate under this Ordinance—

(a) shall commence to trade as a general dealer (as defined in section *two* hereof) within the municipality or the rural area as the case may be, and

(b) shall have notified the local authority or board in terms of section *eleven* (1) hereof.

together with a description, sufficient for the purpose of identification, of the premises at which such person has so commenced to trade and the nature of the trade or business.

(3) Every person, whose name shall have been placed upon any such list, shall be exempt from the necessity of obtaining the certificate hereinbefore referred to unless—

(a) he shall at any time for any reason whatsoever personally cease to trade at such premises; or

(b) there has been a change in the personnel of the ownership or management of the business, or in the membership of the firm or partnership, or in the style or name under which the business is carried on; or

(c) he has removed his business to other premises; or

(d) he has changed the nature of his business; or

(e) in any other circumstances he is required under any law to take out a new licence in respect of the carrying on or conduct of any trade or business referred to in the Second Schedule hereto;

provided that the temporary closing of the premises through illness or absence of the proprietor or manager thereof, fire, flood or other disaster, shall not be deemed ceasing to trade if the premises are still owned or hired by the licence-holder and the stock-in-trade has not previous to such closing, been removed from such premises.

(4) Any such list shall at all reasonable times be open to inspection by any magistrate, revenue officer, shop inspector appointed under the Shop Hours Ordinance, 1923, or any amendment thereof, or officer of police.

(5) It shall be the duty of every local authority or board from time to time to make or cause to be made any necessary alterations in such list.

(6) The provisions of this section shall not apply in the case of hawkers or pedlars who shall be required to apply annually for a certificate for a licence or the renewal of a licence to the local authority or board concerned.

#### **Notification of Commencing to Trade.**

11. (1) It shall be the duty of every person to whom a certificate has been issued under this Ordinance by a local authority or board, as the case may be, forthwith to notify such authority or board when he has commenced to carry on the trade or business in respect of which a licence has been granted upon any such certificate.

(2) Any person who fails to comply with the provisions of this section shall be guilty of an offence.

#### **Removal Certificates may be Granted.**

12. (1) In case any person, whose name shall have been placed upon any list framed under the provisions of the preceding section, shall wish to change the place at which his business shall in future be carried on, such person shall apply (upon payment of a fee of five shillings) to the local authority or board, as the case may be, for a certificate authorising the removal of the business to some other place within the municipality or the rural area and such certificate shall then be either granted or refused; provided that where a local authority or board has refused an application for a removal certificate made owing to termination of a lease or on account of fire or other disaster the applicant therefor shall be entitled, if he shall forthwith notify the local authority or board concerned that he intends to seek other premises to which to remove his business, to have his name retained upon the list mentioned in the preceding section for a period of four months, reckoned from the date of the determination of the lease aforesaid or of the fire or other disaster, and during the said period of four months he shall be entitled to renew his application for a removal certificate under the provisions of this section.

(2) Any certificate so granted by the local authority or board shall be signed by an authorised officer.

(3) Where application for a certificate under the provisions of this section is made to any local authority no such certificate shall be granted unless the medical officer of health for the municipality or other medical practitioner approved by the local authority shall report that the premises are fit and suitable for the business proposed to be carried on thereat, and that he knows of no reason why the said certificate should be refused on the ground of public health or for any other good and sufficient reason.

(4) Where application for a certificate under the provisions of this section is made to any board the board may require the applicant to furnish, at his own expense, a certificate by a medical practitioner appointed by the board.

(5) Any person who may be aggrieved at a refusal to issue a certificate under the provisions of this section may appeal to the Administrator who, if he is satisfied, after obtaining the views of the local authority or board or if the certificate has been refused on the ground of public health after obtaining at the expense of the applicant the views of not less than two impartial medical

practitioners, that any such certificate has been refused without reasonable cause, may issue a certificate under the hand of the Provincial Secretary to the applicant therefor, and such certificate shall be regarded for all purposes as a certificate issued by the local authority or board.

**Offence for Person to Trade before taking out a Certificate.**

13. If any person (including in the case of a partnership each individual member thereof) commences or continues to carry on any trade or business without first having obtained a certificate in the manner hereinbefore prescribed, he shall be guilty of an offence.

**Conditions may be Endorsed on Certificate.**

14. (1) Notwithstanding anything contained in this Ordinance a local authority or board may, when issuing a certificate endorse thereon conditions defining and limiting the class of business to be carried on in the premises or conditions in respect of the premises or such other conditions as may be prescribed by by-law or by regulation in respect of the trade or business to be carried on.

(2) No person to whom a certificate for a licence has been issued, whether such certificate has been endorsed or not in terms of sub-section (1) of this section shall make or cause to be made any alterations to his premises without the approval in writing first had and obtained of the local authority or board concerned as the case may be.

(3) Any person who acts in contravention of the provisions of sub-section (2) of this section or of any conditions endorsed as provided in sub-section (1) shall be guilty of an offence.

GENERAL.

**Fees and Fines.**

15. (1) Subject to the provisions of sub-section (5) of this section a local authority is hereby empowered to make by-laws prescribing the fees to be paid for certificates issued by it under this Ordinance.

(2) Sub-section (121) of section *eighty* of the Local Government Ordinance, 1926, as amended by section *six* (9) of Ordinance No. 4 of 1928 (hereinafter referred to as the said Ordinance) shall be and is hereby amended by the deletion therefrom of the words "or under any other."

(3) Notwithstanding the provisions of sub-section (2) of this section any by-law made under section *eighty* (121) of the said Ordinance prescribing fees for certificates issued under any law repealed by this Ordinance shall remain in force until superseded by by-laws made under this section.

(4) All fines recovered for any offences under this Ordinance shall be the property of the local authority having control of the municipality in which the offence was committed. Where offences are committed in a rural area such fines shall be paid into the Provincial Revenue Fund.

(5) The fee for a certificate for a licence in respect of any trade or business shall not exceed the amount specified in the Second Schedule to this Ordinance against such trade or business.

**Penalty for False Statement, etc.**

16. If any person in making application for a certificate under this Ordinance knowingly makes any false statement, or by any falsehood, fraud, act or contrivance whatever obtains or endeavours to obtain such a certificate he shall be guilty of an offence and liable on conviction to a fine not exceeding £50, or, failing payment thereof, to imprisonment for a period not exceeding six months, and in addition to the penalty hereby provided any certificate issued to such person may, in the discretion of the Court, be cancelled, and such cancellation shall debar the said person from obtaining a fresh certificate for twelve months thereafter. Wherever a certificate is cancelled hereunder the Court shall notify the receiver of revenue of such cancellation whereupon such receiver shall not renew the licence except upon production of a fresh certificate.

**Penalty for Contravention of Ordinance or By-laws or Regulations.**

17. Every person guilty of a contravention of any provision of this Ordinance or of any by-law or regulation framed thereunder for which no other penalty has been provided shall be liable to a fine not exceeding £50, or, in default of payment, to imprisonment for a period not exceeding six months, or to both such fine and imprisonment.

**Regulations.**

18. The Administrator may make regulations for—

- (1) prescribing anything that is to be prescribed;
- (2) fixing the period of office of members of boards, the method of filling vacancies, the procedure to be followed by such boards, the number of members which shall constitute a quorum and the allowances to be paid to such members;

(3) generally the better carrying out of the objects and purposes of this Ordinance.

#### Provisions of this Ordinance in Relation to other Ordinances.

19. Save as is specially provided in this Ordinance the provisions of this Ordinance shall be deemed to be in addition to and not in substitution for any provisions of any other Provincial Ordinance which are not in conflict or inconsistent with this Ordinance. If the provisions of any other Provincial Ordinance are in conflict or inconsistent with this Ordinance the provisions of this Ordinance shall prevail.

#### Saving as To Proclamations, etc.

20. All proclamations and regulations issued under the provisions of any law repealed by this Ordinance and in force at the commencement thereof shall notwithstanding such repeal remain in force until repealed or altered in accordance with law.

#### Short Title.

21. This Ordinance may be cited as the Licences (Control) Ordinance, 1931.

#### FIRST SCHEDULE.

##### LAWS REPEALED.

<i>Year and No. of Law.</i>	<i>Short Title.</i>	<i>Extent of Repeal.</i>
Ordinance No. 23 of 1905	Revenue Licences Ordinance, 1905. . . . .	Subsection (1) of Section eleven
Ordinance No. 12 of 1926	General Dealers (Control) Ordinance, 1926	The whole.
Ordinance No. 10 of 1927	General Dealers (Control) Amendment Ordinance, 1927	The whole.
Ordinance No. 14 of 1930	General Dealers (Control) Amendment Ordinance, 1930	The whole.

#### SECOND SCHEDULE.

1. For the purposes of this Ordinance the words—

“aerated or mineral water manufacturer”,  
 “aerated or mineral water dealer”,  
 “apothecary”,  
 “baker”,  
 “butcher”,  
 “eating-house keeper”,  
 “fresh produce dealer”,  
 “general dealer”,  
 “hawker”,  
 “laundry”,  
 “miller”,  
 “motor garage”,  
 “pawnbroker”,  
 “pedlar”,  
 “restaurant, refreshment or tea-room keeper”

hall bear the meaning assigned to them in Part One of the Second Schedule to the Licences Consolidation Act, No. 32 of 1925 (as amended) subject to any exemptions therein provided.

2. The fees payable in respect of applications for certificates for licences shall not exceed the amounts herein stated:—

	s.	d.
Aerated or mineral water manufacturer. . . . .	5	0
Aerated or mineral water dealer. . . . .	5	0
Apothecary. . . . .	5	0
Baker. . . . .	5	0
Butcher. . . . .	5	0
Eating-house keeper. . . . .	5	0
Fresh produce dealer. . . . .	5	0
General dealer. . . . .	5	0
Hawker. . . . .	2	0
Laundry. . . . .	5	0
Miller. . . . .	5	0
Motor Garage. . . . .	5	0
Pawnbroker. . . . .	5	0
Pedlar. . . . .	2	0
Restaurant, refreshment or tearoom keeper. . . . .	5	0

#### THIRD SCHEDULE.

##### RURAL LICENSING BOARDS CONSTITUTED UNDER THE GENERAL DEALERS (CONTROL) ORDINANCE, 1926, WHICH SHALL BE RURAL LICENSING BOARDS CONSTITUTED UNDER THIS ORDINANCE.

The Barberton Rural Licensing Board.  
 The Benoni Rural Licensing Board.  
 The Belfast Rural Licensing Board.  
 The Bethal Rural Licensing Board.  
 The Bloemhof Rural Licensing Board.  
 The Boksburg Rural Licensing Board.  
 The Brakpan Rural Licensing Board.  
 The Brits Rural Licensing Board.  
 The Carolina Rural Licensing Board.

The Middelburg Rural Licensing Board.  
 The Nelspruit Rural Licensing Board.  
 The Pietersburg Rural Licensing Board.  
 The Piet Retief Rural Licensing Board.  
 The Pilgrims Rest Rural Licensing Board.  
 The Pretoria Rural Licensing Board.  
 The Potchefstroom Rural Licensing Board.  
 The Potgietersrust Rural Licensing Board.  
 The Rustenburg Rural Licensing Board.

The Christiana Rural Licensing Board.  
The Ermelo Rural Licensing Board.  
The Gerniston Rural Licensing Board.  
The Heidelberg Rural Licensing Board.  
The Johannesburg Rural Licensing Board.  
The Klerksdorp Rural Licensing Board.  
The Krugersdorp Rural Licensing Board.  
The Letaba Rural Licensing Board.  
The Lichtenburg Rural Licensing Board.  
The Lydenburg Rural Licensing Board.  
The Marico Rural Licensing Board.

The Schweizer Reneke Rural Licensing Board.  
The Springs Rural Licensing Board.  
The Standerton Rural Licensing Board.  
The Vereeniging Rural Licensing Board.  
The Ventersdorp Rural Licensing Board.  
The Wakkerstroom Rural Licensing Board.  
The Waterberg Rural Licensing Board.  
The Witbank Rural Licensing Board.  
The Wolmaransstad Rural Licensing Board.  
The Zoutpansberg Rural Licensing Board.

**No. 4 of 1932.—Pounds Amendment.—Principal Ordinance No. 7 of 1913.**

*Section 1.*—Amends section eighteen of the Principal Ordinance.  
*Section 2.*—Amends section twenty-three of the Principal Ordinance.  
*Section 3.*—Amends section twenty-four of the Principal Ordinance.  
*Section 4.*—Amends section twenty-six of the Principal Ordinance.  
*Section 5.*—Amends section twenty-seven of the Principal Ordinance.  
*Section 6.*—Amends section thirty of the Principal Ordinance.  
*Section 7.*—Amends section thirty-one of the Principal Ordinance.  
*Section 8.*—Amends section thirty-four of the Principal Ordinance.  
*Section 9.*—Amends section thirty-seven of the Principal Ordinance.  
*Section 10.*—Amends section thirty-nine of the Principal Ordinance.  
*Section 11.*—Amends section forty of the Principal Ordinance.  
*Section 12.*—Amends section forty-four of the Principal Ordinance.  
*Section 13.*—Amends section forty-six of the Principal Ordinance.  
*Section 14.*—Short Title.

**No. 5 of 1932.—Fish Preservation Amendment.**

*Section 1.*—Defines Principal Law as Ordinance No. 10 of 1921.  
*Section 2.*—Amends section four of the Principal Law.  
*Section 3.*—Short Title.

**No. 6 of 1932.—Horseracing and Betting Amendment.**

*Section 1.*—Amends section twenty of Ordinance No. 9 of 1927.  
*Section 2.*—Short Title.

**No. 7 of 1932.—Second Appropriation (Part 1932-1933).**

No. 8 of 1932.]

[Assented to 12th July, 1932.]

AN ORDINANCE.]

To make provision for the Establishment of Cemetary Authorities for Cemeteries situate outside Municipalities and for the control, management and regulation of such cemeteries.

(Date of operation, 27th July, 1932.)

(English copy signed by Governor-General.)

BE IT ENACTED by the Provincial Council of Transvaal as follows:—

**Interpretation of terms.**

1. In this Ordinance, unless some other meaning is clearly intended—

“Administrator” means the officer appointed under sub-section (1) of section *sixty-eight* of the South Africa Act 1909 and any amendment thereof acting on the authority of the Executive Committee of the Province;

“cemetery” means any area of land declared to be a cemetery under section *three* (1) of this Ordinance;

“committee” means a cemetery committee constituted under section *two* (1) of this Ordinance;

“local authority” means a city council, a town council, a village council or a health committee constituted under the Local Government Ordinance, 1926, or any amendment thereof;

“municipality” means the area or district placed under the jurisdiction of a local authority;

**Constitution of Cemetry Committee.**

2. (1) The Administrator may from time to time by Proclamation in the *Provincial Gazette* constitute in such manner as he shall think fit for any cemetery a committee to be called a cemetery committee; and such committee shall be charged with the duty of maintaining any cemetery that may be placed under its control and management in terms of section *three* (1) (b) of this Ordinance.

(2) The Administrator may at any time on due cause being shown abolish and disestablish such committee.

**Powers of Administrator.**

3. The Administrator may from time to time by notice published in the *Provincial Gazette*—

(1) declare that—

(a) any area of land situate outside a municipality shall be a cemetery for the purpose of this Ordinance if such area has been reserved or set

apart for the purpose or acquired under—

- (i) section *twelve* (10) of the Crown Lands Disposal Ordinance No. 57 of 1903 or any amendment thereof; or
- (ii) the Precious and Base Metals Act No. 35 of 1908 (Transvaal) or any amendment thereof; or
- (iii) any law relating to the establishment of townships; or
- (iv) any other law;

(b) such cemetery shall be placed under the control and management of a cemetery committee constituted under section *two* hereof;

(2) make regulations—

(a) for the control, regulation and maintenance of any cemetery;

(b) for authorising the committee to make charges in connection with any cemetery;

(c) for the administration of any revenue received by a committee;

(d) for regulating the finances of the committee and for the appointment by the Administrator of auditors with the powers and duties given to auditors under sections *fifty-nine* and *sixty* of the Local Government Ordinance, 1926, or any amendment thereof;

(e) for authorising the committee to set apart separate portions of a cemetery for the burial therein respectively of white persons or natives or Asiatics or other coloured persons;

(f) for prescribing fines or other penalties for the breach of any regulations.

#### **How Cemetery Committee to Sue and be Sued.**

4. In any legal proceeding which may be instituted by or against a committee it shall be sufficient to describe such committee as the.....Cemetery Committee without mentioning the names of any of the members comprising such committee

#### **Revenues of Committee.**

5. The revenues of the committee shall consist of all charges under the regulations made by the Administrator under sub-section (2) of section *three* hereof and all fines imposed by a competent court and forfeited bail bonds for the contravention of such regulations.

#### **Disestablishment of Committee when Local Authority Constituted.**

6. Whenever the Administrator shall, under the provisions of the Local Government Ordinance, 1926, constitute a local authority for or alter the boundaries of any municipality so as to include any area within which a cemetery is situate the cemetery committee of such cemetery shall be *ipso facto* disestablished and the control and management of such cemetery and all assets and claims to which such cemetery committee was entitled shall thereupon be vested in and belong to the local authority constituted as aforesaid or within whose jurisdiction such area falls.

#### **Ordinance Not to Apply to Outside Areas held by Local Authorities.**

7. The provisions of this Ordinance shall not apply to any outside area held by a local authority for the purposes set forth in section *seven* (b) of the Local Government Ordinance, 1926, or any amendment thereof.

#### **Short Title.**

8. This Ordinance may be cited for all purposes as the Cemetery Ordinance, 1932.

No. 9 of 1932.—Appropriation (1932-33).

No. 10 of 1932.—Roads Fund (Suspension of Payment 1932-33). (*Obsolete*).

No. 11 of 1932.—Local Government Amendment.—*Repealed by Ordinance No. 17 of 1939.*

No. 1 of 1933.—Additional Appropriation (1932-33).

No. 2 of 1933.—Appropriation (Part 1933-34).

No. 3 of 1933.—Transvaal Hospital Nurses Pension Amendment.

Section 1.—*Amends section three of Ordinance No. 13 of 1919.*

Section 2.—*Short Title.*

No. 4 of 1933.]

[Assented to 30th March, 1933.]

#### AN ORDINANCE.

To provide for the Substitution of Publication in the "Provincial Gazette" for Statutory Publication in Newspapers.

(Date of operation, 12th April, 1933.)

(Afrikaans copy signed by Governor-General.)

BE IT ENACTED by the Provincial Council of Transvaal as follows:—

**Administrator may Substitute Publication in Provincial Gazette for Statutory Publication in Newspapers.**

1. (1) Whenever any law confers the power or imposes the duty upon the

Administrator or upon any person in the service of the Transvaal Provincial Administration to publish any information whatsoever in any newspaper the Administrator may in his discretion direct, either in any particular instance or in general in regard to all or any such publications, that such information be published in the *Provincial Gazette* in lieu of in such newspaper, or if such law provides for the publication of such information in the *Provincial Gazette* and in any newspaper, that it be published in the *Provincial Gazette* only, and in either case the Administrator may in his discretion cause to be published, in such manner and form and at such time as he may determine, in any newspaper wherein the said information should have been published in terms of the said law, a concise notice directing attention to the publication of such information in the *Provincial Gazette*.

(2) Any such publication in the *Provincial Gazette* shall for the purposes of the said law, notwithstanding its provisions, be deemed to be a publication in any newspaper wherein the said information should or might have been published in terms of such law.

**Short Title.**

2. This Ordinance may be cited for all purposes as the Statutory Publications Ordinance, 1933.

**No. 5 of 1933.—School Boards Election 1933.—Obsolete.**

**No. 6 of 1933.—Townships and Townplanning Amendment.—Principal Ordinance No. 11 of 1931.**

*Section 1.—Substitutes a new section six in the Principal Ordinance.*

*Section 2.—Substitutes a new section twenty-one in the Principal Ordinance.*

*Section 3.—Amends section twenty-six of the Principal Ordinance.*

*Section 4.—Substitutes a new section thirty-seven in the Principal Ordinance.*

*Section 5.—Short Title.*

**No. 7 of 1933.—Charitable Institutions Amendment.**

*Section 1.—Amends section seven of Ordinance No. 5 of 1926.*

*Section 2.—Short Title.*

**No. 8 of 1933.—Local Authorities (Language) Amendment.**

*Section 1.—Amends the Long Title to Ordinance No. 15 of 1916.*

*Section 2.—Amends section one of Ordinance No. 15 of 1916.*

*Section 3.—Amends section two of Ordinance No. 15 of 1916.*

*Section 4.—Short Title.*

**No. 9 of 1933.]**

[Assented to on the 24th October, 1933.]

AN ORDINANCE.

**To Consolidate and Amend the Law relating to Public Roads and Outspans in this Province and to make provision for all other matters incidental thereto.**

(Afrikaans text signed by the Governor-General.)

BE IT ENACTED by the Provincial Council of Transvaal as follows:—

INTRODUCTORY.

**Repeal of Laws.**

1. The laws mentioned in the First Schedule to this Ordinance shall be and are hereby repealed to the extent set forth in the third column of such Schedule together with the provisions of any other law repugnant to this Ordinance; provided that nothing in this Ordinance contained shall be construed as repealing, amending or otherwise modifying or affecting the provisions of the Precious and Base Metals Act 1908 (Transvaal) or any amendment thereof or any rights acquired thereunder.

**Interpretation of Terms.**

2. In this Ordinance unless some other meaning is clearly intended:—

“Administrator” means the officer appointed under sub-section (1) of section sixty-eight of the South Africa Act, 1909, or any amendment thereof, acting on the authority of the Executive Committee of the Province;

“Administration” means the Transvaal Provincial Administration;

“board” means the road board constituted under section eleven;

“bridge” includes a culvert and/or causeway;

“bridle paths” means public paths existing or constructed for foot, horse and pack saddle traffic;

“construct” “construction” means and includes the surveying, laying out, clearing of bush, forming and making of any road and the construction of any bridge, pontoon, ferry, drift or causeway to serve such road or proposed road and all necessary approaches, cuttings, embankments, subways, culverts, sloods, drains, dams, curbs, fences, parapets, guards and any other work or thing forming part of or connected with or belonging to such road;



"district" means the district or area under the jurisdiction of a board;  
 "district road" means any public road other than a main road or bridge path;

"farm" includes any piece of land registered as a farm or portion of a farm in the office of the Registrar of Deeds subject to the provisions of sub-section (5) of section *sixty-one*;

"Gazette" mean the *Official Gazette of the Province of Transvaal*;

"local authority" means a city council, a town council, a village council or a health committee constituted under the provisions of the Local Government Ordinance as a body corporate;

"Local Government Ordinance" means the Local Government Ordinance No. 11 of 1926 and any amendment thereof;

"magistrate" means the magistrate of a magisterial district and includes any officer lawfully acting as such;

"main road" means a public trunk road or highway over or along which the general road traffic of the Province passes and which has been proclaimed a main road in terms of this Ordinance;

"maintain" "maintenance" means and includes the maintenance of a road together with all bridges, pontoons, ferries, drifts and causeways in the line of such road and all approaches, cuttings, embankments, subways, culverts, slots, drains, dams, curbs, fences, parapets, guards and any other work or thing forming part of or connected with or belonging to such road in good order and repair, and further means and includes any reconstruction, alteration, deviation, widening or improvement of such road;

"municipality" means the area or district placed under the jurisdiction of a local authority but does not include the area of jurisdiction of a health committee which has not been declared a body corporate under sub-section (3) of section *one hundred and forty-nine* of the Local Government Ordinance;

"owner" means the owner, lessee or occupier of any property or his lawful representative;

"prescribed" means prescribed by this Ordinance or by the Administrator by regulation under this Ordinance;

"Province" means the Province of Transvaal;

"public road" means—

(1) any road proclaimed as such under this Ordinance or which has been established or become a public road under this or any other Ordinance;

(2) any road or path however created (not running over any land proclaimed under or for the purpose of any law relating to mining for precious or base metals or precious stones or land held under mining title as by such law defined), which has been in the undisturbed use of the public, or which the public has had the right to use during a period of not less than fifteen years;

(3) any road proclaimed a provincial road in terms of section *nine* or *forty-seven* during the currency of any such proclamation; provided that, save as is provided in sub-section (2) of section *seven* and section *nine* and in Chapters IV and V hereof, nothing in this Ordinance contained shall apply to any road—

(a) within a municipality or

(b) within an area of land outside a municipality comprising:—

(i) land in respect of which a township register has been opened in any deeds registry; or

(ii) land which has been certified as an agricultural holding under the provisions of section *one* of the Agricultural Holdings (Transvaal) Registration Act 1919 or any amendment thereof; or

(iii) the area of jurisdiction of a health committee constituted under section *one hundred and forty-six* of the Local Government Ordinance but which has not been declared as a body corporate thereunder;

"registered owner" means the person registered in the Deeds Office as the owner of any property or his lawful representative;

"road reserve" means that part of a public road which is not the roadway;

"roadway" means that part of a public road improved and intended to be used for vehicular traffic or used or reasonably usable for the time being for vehicular traffic in general.

## CHAPTER I.

### PUBLIC ROADS.

#### Classification of Public Road.

3. For the purposes of this Ordinance the public roads in this Province shall be divided into the following classes:—

(a) Main roads.

\* As amended by section *one* of Ordinance No. 11 of 1940.

- (b) District roads.
- (c) Bridle paths.

#### Width Public Roads.

4. The width of public roads including the road reserve shall be as follows:—

- (a) main roads, one hundred Cape feet;
- (b) district roads, fifty Cape feet;
- (c) bridle paths, not exceeding fifteen Cape feet;

provided that the Administrator may reduce such width when he is satisfied that it is necessary to do so.

#### Bridges and Drifts Considered as Portions of Public Roads.

5. For the purposes of this Ordinance, bridges and drifts in the course of a public road shall be considered as portions of that public road.

#### Public Roads Vested in Administrator.

6. All public roads within this Province shall be vested in and remain under the control and charge of the Administrator.

#### Administrator Empowered to Open, Close or Divert Roads.

\*7. (1) The Administrator may from time to time as occasion requires by proclamation in the *Gazette*—

- (a) declare any road to be a public road;
- (b) declare that a public road shall exist on land where no road was previously in existence or where a road has previously been in existence but has been closed, and define the course of that road after investigation and report by the board;
- (c) declare any public road to be a main road, district road or bridle path as the case may be, provided that no road shall be declared to be a public road on any land proclaimed under the Precious and Base Metals Act 1908 (Transvaal) or any amendment thereof, or land held under mining title as by such law defined, unless the course of that road has been reserved for the purposes of a road under the provisions of that Act or amendment aforesaid or on any land proclaimed as an alluvial digging under the provisions of the Precious Stones Act 1927 or any amendment thereof, or any prior law, without the consent of the Minister of Mines;
- (d) subject to the provisions of section *thirty-seven* close or deviate any public road after investigation and report by the board.

(2) Notwithstanding anything to the contrary in this Ordinance contained the Administrator may, after investigation and report by a commission appointed by him, and if it would in his opinion be in the interests of the travelling public, by proclamation in the *Gazette*, declare—

- (a) any road described in paragraph (a) or (b) of the proviso to the definition of "public road" in section *two* of this Ordinance to be a public road for purposes of this Ordinance.
- (b) that, for purposes of this Ordinance, a public road shall exist on any land falling within any of the areas referred to in the said paragraphs (a) and (b) where no road was previously in existence or where a road has previously been in existence but has been closed, and define the course of such road;

Provided that no road shall be proclaimed under this sub-section on any land proclaimed under the Precious and Base Metals Act, 1908 (Transvaal), or any amendment thereof or land held under mining title as by such law defined, unless the course of that road has been reserved for the purposes of a road under the provisions of that Act or amendment aforesaid or on any land proclaimed as an alluvial digging under the provisions of the Precious Stones Act, 1927, or any amendment thereof, or any prior law, without the consent of the Minister of Mines.

(3) The Administrator may at any time cancel or amend a proclamation issued in terms of sub-section (2) of this section.

#### Closing Public Roads Temporarily, etc.

8. (1) Subject to the provisions of the Motor Vehicle Ordinance 1931 or any amendment thereof, the Administrator may at all times, and upon such notice as he shall deem fit, close temporarily or permanently for any particular class of traffic or temporarily for all traffic any public road or temporarily divert any such road for the purpose of executing repairs or for any other purpose in the discretion of the Administrator and may otherwise regulate the traffic on any such public road.

(2) Any person who uses any such public road while temporarily or partially closed under the provisions of this section shall be guilty of an offence and shall be liable on conviction to the penalties prescribed in section *forty-three*.

\* As amended by section *two* of Ordinance No. 11 of 1940.

**Powers of the Administrator to Proclaim Roads in Certain Areas as Provincial Roads.**

9. (1) Anything to the contrary in this Ordinance notwithstanding it shall be lawful for the Administrator, by proclamation in the *Gazette*, to declare as a provincial road any road passing through any of the areas referred to in sub-paragraphs (i), (ii) and (iii) of paragraph (b) of the definition of "public road" in section *two* provided that such road connects up with and is a continuation of a main road outside any of such areas and provided further that no road shall be declared under this section to be a provincial road on any land proclaimed under the Precious and Base Metals Act 1908 (Transvaal) or any amendment thereof, or land held under mining title as by such law defined, unless the course of that road has been reserved for the purposes of a road under the provisions of that Act or amendment aforesaid or on any land proclaimed as an alluvial digging under the provisions of the Precious Stones Act 1927 or any amendment thereof, or any prior law, without the consent of the Minister of Mines.

(2) From and after the date of any proclamation issued under sub-section (1) hereof the road so proclaimed shall become and remain a public road, subject to the provisions of the next succeeding sub-section, and the Administrator may from time to time construct, maintain and repair the same in so far as finances shall permit.

(3) Any proclamation issued under the provisions of this section may at any time, on due cause being shown, be cancelled, altered or amended by the Administrator as he shall think fit.

**Entering upon and taking Possession of Land for Public Roads.**

\*10. The Administrator or any person acting under his authority in that behalf may after notice to the owner or owners enter upon and take possession of so much of any land as may be required for the opening or construction of any public road or any other purpose subsidiary to the discharge of the duties or powers conferred and imposed by this Ordinance in respect of such road.

**CHAPTER II.****CONSTITUTION AND POWERS AND DUTIES OF ROAD BOARDS.****Constitution of Road Boards.**

†11. (1) The Administrator may from time to time by proclamation in the *Gazette*—

(a) constitute for any area outside a municipality a board to be called a road board consisting of a magistrate who shall be the chairman and not less than three nor more than six such other persons as may be appointed by the Administrator subject to the provisions of section *twelve*; provided that the Administrator may in addition to such persons appoint other persons *ex officio* members of a board—an *ex officio* member so appointed shall hold office during the pleasure of the Administrator and shall have the right to take part in the proceedings of the board, but shall not have the right to vote. The Administrator may from time to time determine the amount to be paid to an *ex officio* member for travelling and personal expenses while on the business of the board;

(b) increase, alter or diminish the area of jurisdiction of any board constituted under this section and at any time on due cause being shown abolish or disestablish such board.

(2) The boards constituted under any law repealed by this Ordinance and mentioned in the Second Schedule hereto shall be deemed to be road boards constituted under this Ordinance and the members thereof shall be deemed to have been appointed under this Ordinance and shall continue in office for the periods for which they were appointed subject to the provisions of this Ordinance.

**Disqualifications.**

12. No persons shall be appointed, or continue to be, a member of a board for any district—

(a) who has been convicted at any time of an offence for which imprisonment without the option of a fine has been imposed as a punishment, unless he shall have received a free pardon or his period of imprisonment shall have expired at least three years prior to the date of his appointment; or

(b) who is of unsound mind or is under curatorship; or

(c) whose estate shall be in liquidation or under assignment in trust for his creditors; or

(d) who is an unrehabilitated insolvent; or

(e) who is an alien.

\* As amended by section *three* of Ordinance No. 11 of 1940.

† As amended by section *one* of Ordinance No. 8 of 1937.

**Circumstances under which Members Vacate Office.**

\*13. A member of the board shall vacate his office—

- (a) in any of the circumstances described in the last preceding section; or
- (b) if he has been removed from office by the Administrator in terms of section *fourteen*; or
- (c) if he has been convicted for a contravention of section *nineteen*; or
- (d) in the case of an *ex officio* member when the Administrator cancels his appointment.

**Suspension and Removal of Members.**

14. The Administrator may suspend and remove any member of the board from his office for incapacity to act as such or misbehaviour or for any good and sufficient reason.

**Period of Office.**

†15. Unless otherwise provided in this Ordinance or determined by the Administrator in making the appointment every member of a board shall hold office for a period of three years from the date of his appointment.

*Section four of Ordinance No. 8 of 1937 provides:—*

**Application of Amended Provisions of Principal Law.**

4. The provisions of the principal law as amended by this Ordinance shall apply to all *ex officio* members of road boards whether appointed before or after the commencement of this Ordinance.

**Vacancies How to be Filled.**

16. (1) If any member of the board shall, during the currency of his period of office, die, resign, become or be found disqualified under any law or otherwise vacate his seat thereon a successor to fill the vacancy so caused may be appointed by the Administrator.

(2) The member appointed in terms of this section shall hold office only for the unexpired term of office of his predecessor.

**Quorum.**

17. Three members of a board including the chairman shall form a quorum provided that where the membership of a board is less than five including the chairman the quorum shall be two members of whom one shall be the chairman, and provided further that during his absence from the seat of the magistracy the chairman may in writing appoint the senior officer on the staff of the magistrate to act as chairman during such absence.

**Powers and Duties of Road Boards.**

‡18. (1) The board shall—

- (a) have such powers, duties and functions as may be prescribed;
- (b) assist and advise the Administrator on all matters relating to public roads within its district and to outspans whether within its district or in a municipality contiguous to its district.
- (c) obtain and transmit to the Administrator any information that may be required by him in connection with the administration of this Ordinance or the regulations thereunder; and
- (d) generally carry out all such functions as may from time to time be assigned to it by the Administrator.

(2) If authorized thereto by regulation made by the Administrator and published in the *Gazette* a board may, in consultation with the road inspector, appoint and dismiss daily paid gangers, white labourers and road workers required for or employed on roads, bridges and outspans constructed, established or maintained under this Ordinance.

**Members having Pecuniary Interest may not Vote.**

19. (1) No member of the board shall vote upon or take part or be present at in his capacity as a member, the discussion of any matter before the board in which he has directly or indirectly by himself, his spouse, his partners or his near relations any pecuniary interest.

(2) Any member knowingly contravening the provisions of this section shall be guilty of an offence and on conviction his seat on the board shall *ipso facto* become vacant.

**Contracting Allowed.**

20. (1) No person, being a member of a board, shall be prohibited by reason of his office from contracting with the Administration or the board either as vendor, purchaser or otherwise nor shall any contract or bargain entered

\* As amended by section *two* of Ordinance No. 8 of 1937.

† As substituted by section *three* of Ordinance No. 8 of 1937.

‡ As amended by section *four* of Ordinance No. 11 of 1940.

into by or on behalf of the Administration or of the board or any sub-contract or subsequent bargain in connection with any such contract in which any member of a board shall be in any way directly or indirectly interested be on such account avoided or set aside.

(2) Where any member of a board is interested otherwise than as a shareholder in a limited liability company in any contract or bargain with the Administration or the board or sub-contract or subsequent bargain in connection with any such contract or bargain which involves according to the terms thereof the expenditure or receipt by the Administration or the board of one hundred pounds or more it shall be the duty of such member before such contract or bargain is determined on or approved by the Administration or the board if his interest then exists or if his interest is subsequently acquired then within a reasonable time and in any case not later than one month after the acquisition of such interest to disclose the same to the Administrator as well as to the board and such disclosure shall be made at a meeting of the board and by letter addressed to the Provincial Secretary which shall be reported by him to the Administrator and any such disclosure shall be entered on the minutes of the meeting of the board at which the same is made by the member of the board concerned.

(3) Any member of the board who contravenes this section by omitting to disclose his interest in any contract or bargain with the Administration or the board or sub-contract or subsequent bargain as hereby required shall be liable on conviction to a fine not exceeding seventy-five pounds and in default of payment to imprisonment with or without hard labour for a period not exceeding six months and the court before which he is convicted may order that he shall vacate his seat and his seat shall thereupon become vacant; provided, however, that the court shall not make such order if it is proved that the omission of any such member to make such disclosure was due to illness, absence from his district or some other like cause and was not due to any want of good faith.

(4) It shall be the duty of the Provincial Auditor to report to the Administrator any cases in which it shall appear to him that there has been any failure to comply with the provisions of this section.

### CHAPTER III.

#### CONSTRUCTION, MAINTENANCE, OPENING, CLOSING AND DEVIATION OF PUBLIC ROADS.

##### **General Powers of the Administrator.**

21. The Administrator shall, subject to the provisions of this Ordinance and of the Motor Vehicle Ordinance 1931 or any amendment thereof and when funds permit, have power and authority in the matters and things following, namely:—

(1) the construction, maintenance and control of all main and district roads, and subject to the provisions of section *four*, the fixing of the width thereof;

(2) the provisions and maintenance of such milestones, signposts, direction and warning signs as may be deemed necessary for the guidance of safety of persons, animals and vehicles upon all public roads;

(3) the provisions and maintenance of outspans, wells and watering places for the use of the public upon such roads;

(4) the erection, construction and maintenance on the road reserve or elsewhere of buildings and dwellings for the purposes of this Ordinance.

##### **Manner in which Repairs to District Roads and Bridle Paths may be Effected.**

22. In case any district road or bridle path is required to be repaired the inhabitants residing within the immediate vicinity of that road may make a representation to that effect through the board to the Administrator who shall thereupon cause the approximate costs of repairing such road to be estimated, and may if such repairs be carried out by such local inhabitants, agree to contribute up to one-half of the actual cost thereof, or the Administrator may carry out the work if the board shall satisfy him that the inhabitants of the locality have contributed or have given approved security that they will contribute not less than one-half of the amount so estimated, either in cash, labour, or other manner, approved by the Administrator.

#### TAKING OF MATERIALS.

##### **Obtaining materials from Farms Through which Road Passes.**

23. The Administrator shall have the right to take and convey from every farm or cause to be taken and conveyed therefrom any material necessary for the construction, maintenance or repair of the public roads (including bridges not in line with any such roads) within the limits of that farm.

**Obtaining Materials from Farms or other Adjoining Land.**

24. If a farm does not contain a sufficient or suitable supply of material, the Administrator shall be entitled to take and convey material from the adjoining land, or from any other farm, or from any town lands (other than surveyed erven) on which the material shall be obtainable.

**Administrator may Select Suitable Site for Obtaining Material.**

25. (1) It shall be lawful for the Administrator to select any place or places which he may deem suitable on such farm or town lands as the case may be from which to take such material, provided that the owner shall if he so desires be entitled to point out another place or places for the said purpose and in case such last-mentioned place or places shall be found by the Administrator to be as accessible as regards distance and as suitable as regards quantity and quality of materials as the place selected by him the materials shall be taken from the said place or places as selected by the owner.

(2) The Administrator shall not be entitled to take possession of any material on which the owner has expended any manual labour, or to take stones or other material from any house, kraal, or walls or werf and shall not be entitled to convey material beyond a radius of four miles from the place or places selected under sub-section (1) of this section without compensation, the amount of such compensation to be decided, in case of dispute, by arbitration as provided for in section *one hundred*.

**Opening of Fences and making Roads to Quarries, etc.**

26. For the purposes of obtaining such material as aforesaid the Administrator shall have the right, where necessary, to make openings in fences and roads to quarries and other places; provided that such openings be effectively closed against trespass or straying of stock during the operations and the fence properly restored on the completion of the work and that any quarry or other excavation made in the course of the work which may be a source of danger shall on the completion of the work be either securely fenced off, filled in, or otherwise made safe; and provided further that no damage be done to cultivated lands, trees, fences and other erections, or constructions or improvements of the owner of such private lands over which the material is being conveyed.

**FURTHER RIGHTS OF THE ADMINISTRATOR IN REGARD TO ERECTION OF TENTS, ETC.****Erection of Tents, etc., on Private Lands, etc.**

27. The Administrator shall further have the right—

(1) where other accommodation is not available—

(a) to erect tents or other temporary dwellings for the accommodation of servants or labourers engaged or employed on roads or any work appertaining thereto or for the accommodation of stores plant and equipment; or

(b) to place and store plant and equipment on private land

provided that the area required for such purposes shall be selected in consultation with the owner;

(2) when sufficient grazing is not available within the limits of the road or outspan to graze upon any private land at a locality to be decided by him with due regard to the interests of the owner such animals as may be required for the prosecution of the work, provided that the animals be grazed in such a manner and place as will secure no damage being done to the crops, gardens or orchards and no intermingling with the stock of such owner;

(3) to take and otherwise make provision for water necessary for the proper execution of the work and for animals and labourers provided it shall not be taken from any artificial dam or well or borehole save with the consent of the owner;

(4) to cut down and remove trees or bush where necessary in the construction of public roads, provided that such trees when cut down shall belong to the owner of the property from which the said trees were cut.

**Contractor may Exercise Rights Granted to Administrator.**

28. The rights granted to the Administrator according to the provisions of the last five preceding sections may be exercised by contractors engaged in the construction or repair of roads, bridges and drifts in his behalf; provided that in case of any damage done by a contractor any compensation payable under this Ordinance may be recovered from the Administrator who may thereafter recover in turn from the contractor, and provided further that any contractor for the supply of animals to the Administration for or in connection with any such construction or repair as aforesaid may exercise the rights granted under sub-section (2) of the preceding section if such rights have been specifically granted by written agreement between the said contractor and the Administration.

## PONTS.

**Construction and Maintenance of Ponds, etc.**

29. (1) The Administrator shall have the right to construct and maintain ponds across rivers and to make the necessary landings and anchorages inside or outside the limits of the road, and the necessary approaches thereto. He shall also have the right, subject to the provisions of section *twelve* of Act No. 10 of 1911, to charge fees to be fixed from time to time for transport thereby of vehicles, travellers and stock. He shall further have the right to enter into contracts for the construction, maintenance, letting or hiring of ponds on such conditions as regards tariff as he may think fit.

(2) The Administrator may co-operate with the administration of any neighbouring territory for the provision of ponds across rivers dividing this Province from such territory and may enter into an agreement with such administration in regard to any matters affecting the control, management and upkeep of such ponds.

## DEVIATION OF MAIN ROADS.

**Deviation of Main Roads.**

30. The owner of a farm who desires to deviate any main road thereon may make application to the Administrator, who, after consultation with the board and after such further inquiry as he may think necessary, may agree to such deviation on such terms as he may deem fit.

## DEVIATION OF OTHER PUBLIC ROADS AND APPOINTMENT OF COMMISSIONS.

**Closing of Public Roads other than Main Roads.**

31. The owner of a farm who desires to close, deviate or otherwise disturb any public road other than a main road shall send a written application to the chairman of the board of the district in which the farm is situate (hereinafter referred to as the said chairman).

**Commission of Inquiry.**

32. If in the opinion of the said chairman an application made under the provisions of the preceding section is reasonable he shall transmit such application to the Administrator who may thereupon appoint a commission of not more than three disinterested persons to inquire into the merits of the said application and report to him thereon.

**Inquiry to be Held after Notice.**

33. The said commission shall, after due notice given as prescribed by regulation, and requiring any person objecting to the granting of the said application to lodge his objection in writing with the said chairman within twenty-one days after the first publication of such notice, inspect (if considered necessary) the locality affected by the aforesaid application and make full inquiry into the merits thereof and the objections thereto and shall thereupon with as little delay as possible transmit to the Administrator its report thereon.

**Administrator may Act on Report of Commission.**

34. The Administrator may, after considering the report of the commission, by notice in the *Gazette* declare the said public road to be closed or deviated as set forth in the said notice and the said notice shall include a sketch plan of the public road closed or deviated as aforesaid.

**As to costs.**

35. All costs and expenses of the commission shall in the first instance be borne by the Administration, but on the conclusion of the inquiry the Administrator may order that the whole or such portion of the costs and expenses as he may deem reasonable shall be paid to the Administration by the applicant or any objectors in such proportion as he may deem equitable, having regard to the result of the inquiry, and on such order having been made the amount so payable may be recovered in any court of competent jurisdiction.

**Deviations within Limits of an Owner's Property.**

36. Notwithstanding anything in the preceding five sections contained—

(1) it shall be lawful for the registered owner of any land who desires to make a deviation in the course of a public road other than a main road within the limits of his property to apply in writing to the said chairman who having satisfied himself after inquiry that the interests of the travelling public will not be prejudiced thereby shall transmit such application to the Administrator with his recommendations.

(2) The Administrator shall have the power to authorize the said owner to make a deviation in such a direction as the road inspector shall point out; provided always that before he closes the old road the said owner shall put the new road in proper order to the satisfaction of the Administration.

(3) No such deviation shall be effected unless notice of his intention to effect the same shall have been given by the said owner in the *Gazette* at least twenty-one days previously.

**Application for Closing or Deviation of Road to be Submitted to Administrator where Applicant so Requests.**

\*36(bis). Where the chairman of a board decides in respect of any application received by him in terms of section *thirty-one* or section *thirty-six* for the closing or deviation of a road not to transmit such application to the Administrator he shall inform the applicant accordingly and shall thereafter, if requested thereto in writing by the applicant, submit the application accompanied by his recommendation to the Administrator who may then further deal with the matter according to the provisions of this Ordinance.

**Closing or Deviation of Road on Land held under Mining Title.**

37. Notwithstanding anything in this Ordinance contained in any case of deviation or closing of a public road on land held under mining title the provisions of Part III of the Local Authorities Roads Ordinance 1904 or any amendment thereof shall *mutatis mutandis* apply.

OPENING OF NEW PUBLIC ROADS.

**Opening New Public Road.**

38. A new public road may be opened on the petition of not less than twenty-five owners living in the district through which the road is desired and addressed to the Administrator who shall on receipt of the petition refer it to a commission constituted in terms of section *thirty-two*. The commission shall after due notice given as prescribed by regulation, inspect the locality and hold an inquiry and thereafter forward its recommendations with documents and sketch plan of the locality to the Administrator for his decision.

ENCROACHMENTS, OBSTRUCTIONS, ETC., ON PUBLIC ROADS.

**Prohibition of Unauthorised Encroachments, Alterations, Obstructions.**

†39.(1) No person shall, unless authorized in terms of this Ordinance or under any other law—

(a) encroach on any public road by making or erecting any building, structure, fence, furrow, channel, ditch or other obstacle or by laying any pipe line, wire or cable on, over or under any such road;

(b) leave any obstructions which may be dangerous to the traffic, or any rubbish, debris, heaps of ashes, earthenware, glass, tins, nails, pieces of metal, material, timber, tree stumps, boulders or stones on any roadway or road reserve;

(c) abandon any vehicle or parts thereof on a roadway or road reserve;

(d) dig up, remove or alter in any way the soil, surface, gravel, cuttings, banks or drains of any public road.

(2) Any person who acts in contravention of this section shall be guilty of an offence and shall be liable on conviction to the penalties prescribed in section *forty-three*.

**Administrator may Authorise Acts Prohibited in Section 39.**

40. The Administrator may authorise in writing, under such conditions as he may prescribe, the doing of an act prohibited under the last preceding section, if satisfied that no material damage to the public road or prejudice to the public can result therefrom.

**Laying of Railway, Tramway or Trolley Lines, etc.**

41. (1) No person shall without the written permission of the Administrator first had and obtained—

(a) lay any railway, tramway or trolley lines across any public road; or

(b) construct any bridge across or any culvert or subway under such road;

or

(c) carry any wires electric or otherwise across or lay any underground cables under any public road or outspan.

(2) For every permission granted hereunder the Administrator may charge a fixed or annual fee at such rate as may be decided by him in each case.

**Advertising on Public Roads forbidden.**

42. (1) Save as is provided in any law governing the erection of warning signs upon public roads no person shall erect, construct, place or display in, over or upon any public road any board, notice, structure, fence, screen or other device by means of which any advertisement of any kind may be displayed (hereinafter in this section referred to as an obstruction).

\* Added by section *five* of Ordinance No. 8 of 1937.

† As amended by section *five* of Ordinance No. 11 of 1940.



(2) The Administrator is hereby authorized, without giving any notice, to cause any such obstruction as shall have been erected or placed in, over or upon any such road in contravention of this section to be removed and destroyed and to recover from the person responsible for such contravention any expense incurred by him in such removal and destruction.

(3) Any person who acts in contravention of this section shall be guilty of an offence and shall be liable on conviction to the penalties prescribed in section *forty-three*.

#### Offences.

43. Any person who, except as is in this Ordinance provided—

(a) shall use any public road while the same is under construction or repair; or

(b) shall close, deviate, disturb, obstruct or in any way encroach upon any public road; or

(c) shall wilfully or knowingly allow water to run over any such road shall be guilty of an offence and shall be liable on conviction to a fine not exceeding ten pounds (£10) or in default of payment to imprisonment with or without hard labour for a period not exceeding one month and in case of a second or subsequent conviction to a fine not exceeding twenty-five pounds (£25) and in default of payment to imprisonment with or without hard labour for a period not exceeding three months.

#### Outspanning and making Fires on Roadways Forbidden.

44. Any person who outspans, camps out or makes any fire on any roadway shall be guilty of an offence and shall be liable on conviction to the penalties prescribed in the preceding section.

### CHAPTER IV.

#### PROVINCIAL ROADS IN MUNICIPALITIES.

##### Definition.

45. In this chapter of this Ordinance the expression "provincial road" means a road or portion of a road in a municipality which—

(i) connects up with and is a continuation of a provincial road outside a municipality and proclaimed as such under section *fifty-six*; and

(ii) Deleted by section one of Ordinance No. 17 of 1938.

(iii) is determined and described by the Administrator by Proclamation in the *Gazette* under section *forty-seven*.

##### Application of Chapter.

46. The provisions of this chapter of this Ordinance shall apply to every municipality.

##### Proclamation of Provincial Roads.

\*47. The Administrator may from time to time by Proclamation in the *Gazette*—

(a) determine at which point in a municipality a provincial road shall end for the purposes of this chapter of this Ordinance;

(b) apply *mutatis mutandis* any provisions of this Ordinance as he may decide in respect of such road provided that no local authority shall by virtue of any proclamation issued under this section be relieved of any responsibility in regard to the construction, maintenance and control of such road and provided further that no road shall be declared hereunder to be a provincial road on any land proclaimed under the Precious and Base Metals Act 1903 (Transvaal) or any amendment thereof, or land held under mining title as by such law defined, unless the course of that road has been reserved for the purposes of a road under the provisions of that Act or amendment aforesaid or on any land proclaimed as an alluvial digging under the provisions of the Precious Stones Act 1927 or any amendment thereof, or any prior law, without the consent of the Minister of Mines.

##### Vesting of Provincial Roads.

48. The control and management of every provincial road shall vest in the Administrator as from the date of a proclamation under the provisions of the preceding section determining the limits of such road.

##### Construction and Maintenance of Provincial Roads.

49. (1) The Administrator may from time to time construct, maintain and keep in repair so far as finances will permit any provincial road.

\* As amended by section *two* of Ordinance No. 17 of 1938.

(2) It shall be competent for any local authority to enter into an agreement with the Administration for the construction and maintenance of a better class of provincial road over a specified length than is proposed to be provided by the Administrator and to contribute from its revenue the estimated difference in the cost of providing such better class of road. Such agreement may provide for the work being undertaken and executed by the local authority itself acting for and on behalf of the Administration.

#### **Stormwater.**

50. (1) The local authority and not the Administrator shall be responsible for the disposal of all stormwater which may leave a provincial road at any point, shall make adequate provision for such disposal to the satisfaction of the Administrator, and shall be responsible for any expenditure incurred in connection therewith.

(2) The Administrator shall not be liable for any damage whatsoever caused by or from such stormwater.

### CHAPTER V.

#### MAIN ROADS IN MUNICIPALITIES.

##### **Definition.**

51. In this chapter of this Ordinance unless some other meaning is clearly intended—

“board” means a board constituted under the provisions of section *fifty-three*;

“main road” means a road passing through a municipality which connects up with and is a continuation of a main road (as defined in section *two*) outside the limits of such municipality but shall not include any portion of the road known as the Main Reef Road and defined in the First Schedule to Ordinance No. 17 of 1928 or any amendment thereof nor any provincial road proclaimed as such under the provisions of section *forty-seven* and includes bridges or drifts over which such main road passes.

##### **Application of Chapter.**

52. The provisions of this chapter of this Ordinance shall apply to every municipality.

##### **Constitution of Board.**

53. (1) If the Administrator considers that any local authority has failed to construct or maintain or repair any main road or any portion thereof he may proceed to constitute a board to make recommendations as to the steps that shall be taken for the construction or repair of such road or portion thereof in order to meet the needs of the travelling public.

(2) Such board shall consist of—

(a) a member appointed by the road board having jurisdiction over the main road outside the municipality being a continuation of the main road within the municipality;

(b) a member appointed by the local authority concerned;

(c) a member agreed upon by the two members appointed by the said road board and the local authority concerned, provided—

(i) that in the event of the two members failing to agree as to the appointment of the third member, such third member shall be nominated by the Administrator;

(ii) that if the local authority fails, within one month of being notified by the Administrator to appoint a member of the board, to make such appointment, the board shall consist of a member appointed by the said road board and a member appointed by the Administrator.

(3) The Administrator may, on the recommendation of the board passed by a majority thereof, give notice to the local authority requiring it to construct or repair such road or portion thereof within a period to be notified by him.

##### **Administrator's Powers in the Event of a Local Authority Failing to Carry out the Required Work.**

54. If the local authority shall fail to carry out the required work within the period so notified, or if the Administrator is satisfied that the local authority is not taking the necessary steps for the completion of the required work within the said period, he may authorize any person or persons to do or carry out the required work and to expend such sum in so doing or carrying out works or things as to him may seem necessary, provided that any money expended by the Administrator under this section plus interest at the rate of five per cent, per annum shall be recoverable by the Administrator from the local authority in like manner as if the sum so expended was a loan secured on the property and revenues of the local authority under the provisions of section *fifty-one* of the Local Government Ordinance.

## CHAPTER VI.

## ESTABLISHMENT OF A ROADS FUND.

**Definition.**

55. For the purposes of this chapter of this Ordinance—

“Provincial Road” means any public road which has been proclaimed a provincial road by the Administrator in terms of section *nine*, or of section *forty-seven* or of the next succeeding section.

**Proclamation of Provincial Roads.**

56. The Administrator may from time to time by proclamation in the *Gazette* declare any public road to be a provincial road for the purposes of this chapter.

**Establishment of Roads Fund.**

\*57. (1) There shall be established a roads fund (hereinafter referred to as the fund), which shall be controlled by the Administrator and which shall be used—

(a) for the construction and maintenance of provincial roads including those public roads through municipalities which have in terms of section *fifty-six* been declared provincial roads for the purposes of this Chapter and which are being or have been constructed at the entire expense of the Administration;

(b) for the payment of interest and redemption charges on capital funds applied to the construction of the roads referred to in paragraph (a) of this sub-section, the amount of such capital funds to be borrowed in any one year, however, not to exceed an amount of £60,000;

(c) for the payment of such subsidies as are granted by the Administrator under sub-section (2) of this section.

(2) Whenever a public road through a municipality has in terms of section *fifty-six* been declared a provincial road for the purposes of this Chapter and has been constructed to the satisfaction of the Administrator at the expense of the local authority of such municipality, the Administrator may in his discretion grant a subsidy payable from the fund to such local authority for the maintenance of such road on such basis and subject to such conditions as he may determine.

**Monies to be Credited to Fund.**

58. (1) There shall be paid from the Provincial Revenue Fund into the fund the following minimum amounts in respect of the financial years stated—

1933-34	... ..	£140,000
1934-35	... ..	147,500

During the financial years 1935-36 and 1936-37, and in the following financial years until such time as otherwise determined by the Provincial Council the amount shall be £155,000.

(2) If the portion of the fees received under sub-section (1) of section *fifty-two* of the Motor Vehicle Ordinance, 1931, or any amendment thereof by all local authorities during any financial year, which is due to be retained by the Administrator under the said section, exceeds one-half of the amount of the fees received by all local authorities during the financial year in respect of licences under the said Ordinance issued to persons residing outside the area of jurisdiction of a local authority, by more than the amount which, in terms of sub-section (1) of this section is to be paid into the fund in respect of that financial year, a sum equal to such excess shall be paid into the fund from the Provincial Revenue Fund.

(3) Notwithstanding anything in this section contained the provisions of the Roads Fund (Suspension of Payments, 1932-33) Ordinance, 1932, are hereby preserved.

**Charges Against Fund.**

†59. (1) There shall be charged against the fund in each financial year—

(a) the monies required to be provided for interest and redemption charges on loans raised specifically for the construction of the roads referred to in paragraph (a) of sub-section (1) of section *fifty-seven* on a twenty years' basis of repayment;

(b) an amount of eight per cent. per annum on the total cost of construction as at the end of the last preceding financial year of the roads referred to in paragraph (a) of sub-section (1) of section *fty-seven* and in respect of which the cost of construction has been met from the fund; provided that with effect from the first day of April, 1939, the amount for each financial year shall be reduced by eight per cent. per annum on the total cost of construction of such of the said roads as the Governor-General has up to the end of the relative last preceding financial year declared to be national

\* As substituted by section *one* of Ordinance No. 12 of 1943.

† As substituted by section *two* of Ordinance No. 12 of 1943.

roads in terms of sub-section (1) of section *four* of the National Roads Act, 1935 (Act No. 42 of 1935) and any amendment thereof;

(c) all subsidies granted under sub-section (2) of section *fifty-seven*;

(d) the cost of construction of those public roads through municipalities which have in terms of section *fifty-six* been declared provincial roads for the purposes of this Chapter and which are constructed at the entire expense of the Administration.

(2) Any sums remaining in the fund after the amounts referred to in paragraphs (a) to (d) inclusive of sub-section (1) of this section have been charged against the fund may be applied to the construction of provincial roads.

(3) The amount charged against the fund in terms of paragraph (b) of sub-section (1) of this section shall be applied generally to the maintenance of the roads referred to in paragraph (a) of that sub-section and shall not be applied to any other purpose.

#### Cost of Construction of Certain Provincial Roads.

60. (1) The cost of the construction of any portion of a provincial road which has been met from sources other than the fund shall be deemed to have been met from the fund and the cost of such construction shall be deemed to have been £600 per mile.

(2) In the case of any such portions of a road proclaimed a provincial road up to and including the 31st March, 1934, the expenditure in connection with the construction of such portions shall be deemed to have been incurred during the financial year 1933-34.

(3) In the case of any such portions of a road proclaimed a provincial road subsequent to the 31st March, 1934, the expenditure in connection with the construction of such portions shall be deemed to have been incurred during the financial year in which such road is proclaimed a provincial road.

### CHAPTER VII.

#### OUTSPANS.

##### Servitude of Outspan on Farms.

61. (1) Every farm in this Province which was registered in the office of the Registrar of Deeds at the eighteenth day of October, 1912, and every farm not heretofore surveyed as such which is granted by the Crown subsequent to that date (except any farms which are one hundred morgen or less in extent) shall be subject to a servitude of outspan in favour of the public.

(2) Every farm as aforesaid which exceeds three thousand seven hundred and fifty morgen shall be subject to two separate servitudes of outspan provided always that the combined area of the two outspans shall not exceed one-seventy-fifth part of the area of such farm.

(3) In the event of any farm as aforesaid being sub-divided into two or more portions subsequent to the eighteenth day of October, 1912, or subsequent to the Crown Grant as aforesaid, as the case may be, the said right shall attach only to one portion of the farm so sub-divided, to be determined as hereinafter provided. Or, alternatively, in cases where it is convenient to locate an outspan on two or more portions of a farm, the said right may be attached to such portions provided that the portions of the outspan are contiguous and provided further that the requisite diagrams showing the said outspan are produced and registered at the expense of the owner or owners of the portions of the farm so sub-divided.

(4) Before transfer of any portion of a farm subject to an outspan servitude in terms of this Ordinance is passed the Registrar of Deeds shall satisfy himself by means of documentary evidence or otherwise that the owner has been notified that the said servitude is being attached to his portion of the farm.

(5) Where any survey of a sub-division of a farm or portion thereof was made prior to the eighteenth day of October, 1912, but transfer thereof was not registered before such date, such sub-division shall be deemed to be a farm for the purposes of this Chapter of this Ordinance.

##### Area of Outspan.

62. (a) The said servitude of outspan shall extend over an area of one seventy-fifth part of the extent of every such farm; provided that in no case shall such area be less than five morgen.

(b) All public outspans shall be under the control and management of the Administrator and may be used, subject to the provisions of this Ordinance, for outspan purposes, including camping out and the parking of motor vehicles.

##### Administrator may Define and Alter Outspan Servitudes.

\*63. (1) It shall be lawful for the Administrator, after reference to the board, as may from time to time appear advisable, with the consent or on the application of the owner of any land, or if no agreement can be come to with the

\* As amended by section *seven* of Ordinance No. 11 of 1940.

owner as may be decided by arbitration as provided for in section *one hundred* and in the case of outspans within a municipality after consultation with such municipality and the board for the area in which such municipality falls—

(a) to define, beacon off and limit to a particular area any undefined or general servitude of outspan over farms;

(b) to reduce the area of a surveyed or demarcated outspan servitude;

(c) to alter the position of a surveyed or demarcated outspan servitude. provided always that notice of the intention of the Administrator to take action under this section shall be published once in the *Gazette* and in one or more newspapers circulating in the district; and provided further that the Administrator shall be satisfied that no sufficient reason has within one month of the publication of such intention been adduced against such action; and provided further that in the case of any alteration hereunder of the locality of an outspan servitude which has already been surveyed and registered, such survey and registration shall be cancelled and the new servitude of outspan shall be surveyed and registered in place thereof; and provided further that before any action is taken hereunder on the application of the owner of any land as aforesaid the latter shall deposit with the Provincial Secretary such sum as the Administrator shall consider sufficient to cover any expenses to be incurred in connection with such application and shall also give an undertaking to defray any such expenses in excess of the amount deposited; and in the case of a reduction under paragraph (b) he shall further pay an amount equal to the value as may be agreed upon of such portion of the servitude as it is proposed shall be surrendered in favour of the owner of the land.

(2) Any person who, except as aforesaid, shall change the locality or alter the beacons of any outspan duly beaconed off under this Ordinance shall be guilty of an offence and liable to the penalties prescribed in section *one hundred and one*.

#### **Disused Outspans may be Cancelled by the Administrator.**

\*64. (1) Whenever any outspan servitude is in whole or in part no longer used and required in the opinion of the Administrator for outspan purposes, or in any special case where it is deemed by the Administrator to be in the public interest so to do, it shall be lawful for the Administrator, upon the application of the owner of the land affected by such servitude and after consultation with the board and in the case of outspans within a municipality after consultation with such municipality and the board for the area in which such municipality falls, to cancel wholly or partially such servitude of outspan provided that a fair and reasonable sum of money shall be paid by the owner to the Administrator for the release of his land either wholly or partially from such servitude and provided further that in no case shall any improvements made upon such outspan be taken into consideration in arriving at such amount. Provided always that notice of the intention of the Administrator to take action under this section shall be published at least one in the *Gazette* and in one or more newspapers circulating in the district and provided further that the Administrator shall be satisfied that no sufficient reason has within one month of the first publication of such intention been adduced against such action; and provided further that before any action is taken under this sub-section on the application of the owner of any land as aforesaid the latter shall deposit with the Provincial Secretary such sum as the Administrator shall consider sufficient to cover any expenses to be incurred in connection with such application and shall also give an undertaking to defray any such expenses in excess of the amount deposited.

All moneys received under this section and amounts paid in terms of the concluding sentence of sub-section (1) of section *sixty-three* shall be paid into the Provincial Revenue Fund.

(2) Notwithstanding anything in this section contained on cancellation of a servitude of outspan over unalienated Crown Land no such sum of money shall be payable to the Administrator as in sub-section (1) of this section provided.

(3) For the purposes of sections *sixty-three* and *sixty-four* the term "owner" shall include any lessee or licensee who holds a lease or licence of Crown Land with the right of purchase provided such lessee has exercised his right of purchase and is acting with the approval of the responsible Minister.

#### **Acquisition of Servitudes of Outspan.**

65. The Administrator may from time to time acquire a servitude over any land for outspan purposes at a price to be determined by agreement with the owner.

\* As amended by section *one* of Ordinance No. 7 of 1939 and by section *eight* of Ordinance No. 11 of 1940.

**Certificates to be Issued by the Provincial Secretary.**

66. Whenever the Administrator has exercised any of the powers conferred upon him by paragraph (a), (b) or (c) of section *sixty-three* or by section *sixty-four* (1) and the matter in respect of which such power was exercised has been duly completed the Surveyor-General and the Registrar of Deeds shall, upon production by the Provincial Secretary of a certificate to the effect that such matter has been so completed, make the necessary endorsements upon the relative diagrams and title deeds respectively.

**Places where Outspans may Not be Situated.**

67. No outspan shall be situated on land on which any building exists, nor (subject to any rights acquired under any law dealing with prospecting or mining for Precious or Base Metals or Precious Stones) shall it be lawful for any person to build upon, plough or otherwise interfere with the grazing rights of any outspan beacons off under this Ordinance; provided that, save as provided in the next succeeding section, nothing in this section shall be deemed to prohibit the owner from grazing stock upon the outspan.

**Fencing of Outspans.**

68. (1) It shall be lawful for any owner, who desires to fence his outspan, to do so provided he affords sufficient access to the outspan for the travelling public.

(2) The owner who desires to fence off an outspan may make application to the Administrator for a contribution towards the cost of the fence. The Administrator may thereupon agree with the owner as to the nature of the fence to be erected and the gates therein and the cost of the same, and if the fence and gates be erected in accordance with that agreement the Administrator shall contribute one-half of the cost of the material of the fence and gates.

(3) Wherever any servitude of outspan has been acquired by the Administrator in terms of section *sixty-five* the Administrator may cause such area to be fenced and may by regulation prohibit the grazing thereon of stock other than stock belonging to or in charge of persons travelling over public roads.

**Administrator's Registry of Outspans.**

69. The Administrator shall cause to be kept a registry of all outspans beacons off as aforesaid in which shall be indicated the farms on which such outspans are situated, the area of the outspans and such other particulars as may be prescribed.

**Determination of Outspans on Sub-Division of a Farm.**

70. (1) Whenever after the eighteenth day of October, 1912, the whole or any part of any farm which is subject to the servitude of outspan shall be surveyed for the purpose of transfer or the issue of a certificate of title of any portion or portions thereof the following provisions shall apply:—

(a) in case an outspan has been duly beacons off under this Ordinance the registered owner or his legal representative shall give notice in writing to the Administrator that such survey has been effected, pointing out on which portion of the farm as surveyed the said outspan is situate;

(b) in case no outspan has been beacons off the registered owner or his legal representative shall give notice in writing to the Administrator, who shall thereupon in consultation with the owner determine to which portion the servitude of outspan shall thereupon attach.

(2) (a) Whenever two or more pieces of land, subject to a servitude of outspan under this Ordinance, are consolidated the area of the outspan in respect of the consolidation shall be one seventy-fifth part of the aggregate proposed consolidated area and the site of the outspan may be selected irrespective of the internal boundaries of the component portions provided that in no case shall such area of outspan be less than five morgen.

(b) In cases where one or more of such component portions carry an outspan in respect of a larger area of which it originally formed a portion such outspan area shall not be reduced except by the Administrator who may, after investigation and report by the Registrar of Deeds, determine any question as to whether any outspan servitude is in excess of any holding comprising such component portions.

(3) Whenever two or more pieces of land, any one or more of which pieces is or are subject to an outspan of servitude under this Ordinance, are consolidated the area of the outspan in respect of the consolidation shall in extent be equal to the aggregate of the area or areas of outspans of those pieces of land which are subject to such a servitude provided that the area of outspan in respect of the consolidation shall not exceed one seventy-fifth part of the aggregate proposed consolidated area but in any case shall not be less than five morgen and the site of the outspan may be placed within any part of the said consolidated area.

**Production and Registration of Certificate of Attachment.**

71. (1) Before the transfer of any portion of any farm as mentioned in the last preceding section shall be passed there shall be produced to the Registrar of Deeds a certificate from the Provincial Secretary to the effect that the servitude of outspan originally attaching to the whole farm attaches only to the portion on which the outspan has been beacons off or in case no outspan has been beacons off to the portion determined on as in paragraph (b) of sub-section (1) of the last preceding section prescribed; provided that in any case the outspan area shall be proportionate to the whole area of the farm before sub-division.

(2) So soon as the transfer of the portion shall have been passed in accordance with the certificate mentioned in sub-section (1) of this section the Registrar of Deeds shall endorse the titles of the portions of the farm affected thereby that they are subject to or exempt from a servitude of outspan as the case may be.

**Certificate Not Required in Certain Circumstances.**

72. Where any land has been acquired by expropriation or other means for public purposes a certificate as mentioned in sub-section (1) of the last preceding section shall not be necessary nor shall the Registrar of Deeds be required to make any endorsement in connection therewith on the title deeds provided always that in the event of any outspan being eventually allocated such outspan shall be calculated on the full extent of the farm including any portion acquired as aforesaid.

**Grazing and Watering on Outspans.**

73. Every person travelling over a public road shall be entitled to graze and water his stock on all outspans. If an outspan has no proper water the Administrator may take reasonable measures to provide sufficient water thereon, and until such water shall have been supplied such travellers shall be entitled, in consultation with the owner, to water his stock from any river, stream or other natural water supply situate nearest such outspan. Until an outspan has been beacons off in terms of this Ordinance the owner of a farm shall have the right to point out a place for outspan.

**Period Travellers may Remain on Outspans and Speed at which they shall Move.**

74. (1) No person may remain on any outspan for a longer period than twenty-four successive hours, except with the consent of the owner, lessee or other person entitled to the grazing on the land on which such outspan is situate or unless he shall there be detained by accident, floods or other unforeseen circumstances. In addition to any penalty which may be imposed for contravention of this section the animals of such travellers so remaining over for more than twenty-four hours may be impounded.

(2) No person travelling with any stock may, save as is provided by sub-section (1), travel with such stock along any public road at a lesser speed than five miles in every twenty-four hours, except with the consent of the owner, lessee or other person entitled to the grazing on the land over which he travels, or unless he shall be detained in his travelling by accident, flood or other unforeseen circumstances.

(3) In calculating any period under this section Sundays shall not be included.

(4) Any person who contravenes the provisions of this section shall be guilty of an offence and liable on conviction to a fine not exceeding five pounds, or, in default of payment to imprisonment with or without hard labour for a period not exceeding one month.

**Stallions and Bulls to be Under Control.**

75. The owner or person in charge of any horse or donkey stallion over the age of two years, or bull over the age of eighteen months, or ram over the age of eight months, shall be bound to keep such animal under control on an outspan, unless it is impossible to do so, proof of which shall lie upon the person charged. Any person contravening this section shall on conviction be liable to a fine not exceeding twenty pounds or, in default of payment, to imprisonment with or without hard labour for a period not exceeding three months. This section shall not apply to the owner, lessee or occupier of the farm on which the outspan is situated.

**Outspans in Municipalities Not Rateable.**

76. (1) Every interest in land constituting a servitude of outspan situate within a municipality shall be exempted from the provisions of the Local Authorities Rating Ordinance 1928 or any amendment thereof.

(2) The expression "municipality" as used in this section means the area or district placed under the control and jurisdiction of any local authority empowered by law to levy rates on immovable property.

## CHAPTER VIII.

## FENCING AND GATES.

**Fencing Across Public Roads.**

77. It shall be lawful for any owner of a farm or portion of a farm to erect a fence or wall across any public road crossing his ground on condition that such fence shall be made in accordance with the provisions of section *twenty-eight* of the Fencing Act, 1912.

**Warning Signs on Gates.**

78. Every person who is responsible for the maintenance of any gate constructed across a public road shall fasten in the centre of such gate a plate two feet square painted white and shall repaint it white whenever necessary.

**By-Passes for Motor Vehicles.**

79. (1) The owner of any land through which an unfenced public road passes or the owner or the several owners of any lands separated by an unfenced public road, may, with the permission of the Administrator, erect a by-pass for motor vehicles on such road at any place at which the road intersects any fence enclosing or forming the boundary of any such lands.

(2) Every by-pass erected under the provisions of this section shall be erected according to a design which shall be submitted to the Administrator for his approval or otherwise. The Administrator may, in giving his approval, attach conditions under which any by-pass may be erected and maintained.

(3) The person erecting any by-pass in accordance with the approved design shall erect near each end of the track leading to such by-pass a white notice board of such size and in such position as to be readily seen by any persons approaching thereto. The words "Motor By-pass" shall be painted in black letters on such board.

(4) The owner who erects any such by-pass shall be responsible for the proper maintenance of the same at his own expense and shall carry out any conditions made by the Administrator in terms of sub-section (2).

(5) The Administrator may by notice exhibited in a conspicuous position at or near each end of a by-pass prohibit any person from driving any vehicle across the by-pass if the weight of the vehicle together with any load thereon exceeds a weight specified in the notice.

Any person who drives over a by-pass any vehicle of which the weight together with the load thereon exceeds the weight specified in the notice shall be guilty of an offence and liable to the penalties prescribed in section *one hundred and one* and in addition shall be liable in damages for the cost of effecting any necessary repairs to the by-pass occasioned by such use and for any injury sustained by any person before such repairs are effected.

(6) Any by-pass may be closed and the notices removed if the public gate in connection with which it is erected is removed from the road.

Notice of the closing of a by-pass shall be given to the Administrator.

The person closing the by-pass shall take such steps as the Administrator may require to ensure the safety of persons using the road.

(7) Any person who without lawful excuse uses a by-pass erected in pursuance of this section in any manner other than for the passage of a motor vehicle or who wilfully injures or removes any notice displayed in connection with a by-pass, shall be guilty of an offence and shall be liable to the penalties prescribed by section *forty-three*.

(8) Any person who wilfully obstructs or who wilfully injures any by-pass erected in pursuance of this section shall be guilty of an offence and shall be liable to the penalties prescribed by section *one hundred and one*.

(9) The person by whom a by-pass is erected in pursuance of this section shall not be liable for any damage sustained by reason of the by-pass unless it is shown that such person has been negligent with respect to the erection, maintenance or repair of the by-pass or notice boards, or in the carrying out of any provision of this section.

The protection afforded by this sub-section shall extend to the successor in title of the person by whom the by-pass was erected, and such successor shall be liable only in respect of any damage sustained by reason of some neglect, act, or omission of his own in respect of the repair or condition of the by-pass or notice boards, or in carrying out any requirement of the Administrator.

(10) The Administrator by whose permission a by-pass is erected in pursuance of this section shall not be liable for any damage whatsoever sustained in connection with any by-pass.

(11) For the purposes of this section a by-pass means a track through an opening in or over a fence along or adjacent to the line of a public road designed or constructed with the object of allowing free passage for self-propelled vehicles while preventing the passage of animals. A by-pass may be



constructed either by building a ramp to enable motor vehicles to be driven over the top of the fence or by way of a pit dug in or alongside the road and covered with an open grille so as to enable motor vehicles to pass over it, but to be an obstacle to the passage of animals.

**Administrator May Order Removal of Fences, etc.**

80. The Administrator may order the removal of fences, gates, or other enclosures or obstructions across or alongside any public road, if constructed contrary to the provisions of this Ordinance or the Fencing Act, 1912, or any amendment thereof or may cause the same to be removed at the expense of the owner, or person who caused such obstruction.

**Gates Not to be Placed in Unsuitable Positions, etc.**

81. (1) It shall not be lawful—

(a) to place a gate at any spot on a public road not suitable for a halt;

(b) to place a gate which does not swing freely over the road;

(c) to attach to any gate on a public road any spikes or projections which, in the opinion of the Administrator, are dangerous or are likely to cause injury or damage to persons, animals or property.

(2) Any person who acts in contravention of this section shall be guilty of an offence and liable to the penalties prescribed in section *forty-three*.

**Gates Necessitated Owing to Deviation.**

82. All gates that are necessary in existing fences owing to deviations of roads or making of new roads by the Administrator shall be provided and erected by the Administration.

**Offence.**

83. Any person who wilfully injures or removes any fence or gate belonging to the Administration or other appliance or contrivance forming part or serving the purpose thereof shall be liable on conviction to a fine not exceeding seventy-five pounds, or, in default of payment, to imprisonment for a period not exceeding six months, or to such imprisonment without the option of a fine.

## CHAPTER IX.

### FURROWS AND WATERCOURSES.

**Construction of Furrows Across Public Roads.**

84. Any person wishing to lead water over, under or across a public road shall do so at his own expense and cost, after having obtained the approval of the Administrator who may decide on the class of culvert or other conduit which shall be used.

Provided that, in case of any furrow or other conduit existing at the eighteenth day of October, 1912, for the purpose of leading water, any culvert or other work required for carrying the road across such furrow or conduit shall be constructed at the expense of the Administration.

**Raising of Water Levels in Drifts.**

85. It shall not be lawful for any person by any means to raise the level of the water of a river, stream or spruit so as to interfere with a public road, bridge or drift without the consent of the Administrator.

**Disposal of Storm Water.**

86. (1) It shall be lawful for the Administrator in consultation with the owner to divert storm water from or under any public road into private property, not being land occupied by buildings, orchards or gardens or other improvements and he shall not be liable for any damage caused by means of such diversion. In case it be found necessary to divert such water on to lands under cultivation, other than as aforesaid, and damage be caused thereby the owner of such lands shall be entitled to such compensation as may be agreed upon by the parties or, failing agreement, as may be determined by arbitration in manner hereinafter provided.

(2) The provisions of this section shall not apply to any provincial road situate within a municipality.

## CHAPTER X.

### CONTROL OF TRAFFIC.

**Regulations Controlling Traffic on Public Roads.**

87. Subject to the provisions of the Motor Vehicle Ordinance 1931 or any amendment thereof and of this Ordinance the Administrator may from time to time make regulations for all or any of the following purposes, namely—

(1) the regulation, safety and control of traffic on public roads including the restriction of the use of any such roads or parts thereof to specified

vehicles generally or at fixed times or seasons and the provision that any specified public road shall be limited in use to traffic moving in any one specified direction and generally the better carrying out of the objects of this chapter of this Ordinance;

(2) the control of heavy vehicular traffic and the prohibition generally or at any particular season of the use of vehicles of any specific kind which may be specially injurious to roads and similarly the restriction of the use of public roads to any specific kind of vehicle;

(3) fixing the weight which shall be permitted to be taken over any bridge and the times when and the speed at which any vehicle may be allowed to cross the same;

(4) the regulation of the wheels of vehicles including width of tyres traversing public roads;

(5) the limitation of the speed of vehicles;

(6) subject to the provisions of the Hawkers and Pedlars Ordinance No. 4 of 1930 or any amendment thereof the use of public roads by hawkers, pedlars and other itinerant traders;

(7) the apparatus to be used for the breaking or scotching of vehicles;

(8) prescribing the manner in which any vehicle or animals may be driven or led over or along a public road or section of a public road;

(9) detaining any vehicle in order to ascertain whether this Ordinance or the regulations thereunder are being complied with and for requiring the driver and others to furnish such information as may be required for that purpose;

(10) the painting of names and addresses of owners on wagons or other vehicles;

(11) generally making provision for all matters deemed necessary for the due administration of, and for giving full effect to the provisions of this Ordinance.

#### Offences.

88. It shall not be lawful—

(1) to lock the wheels of any vehicle when travelling on a public road;

(2) to use or draw any sledge or any attachment that projects beyond the tread of the wheel on any public road;

(3) to make use of metal plates or shoes (skids) on any public road unless absolutely essential for safety on exceptionally steep gradients, and in no case unless the plates or shoes are not less than six inches wide;

(4) to make use of brakes when passing over bridges on public roads;

#### Excavations in Public Roads.

89. In the event of any hole or excavation having been made in any public road for the purpose of extricating any vehicle therefrom, the person in charge of that vehicle shall forthwith repair the damage caused in the road and leave it in good order.

#### Travellers to Keep to the Left or Inside when Coming Down Mountain Slopes.

90. (1) All travellers along public roads shall when meeting any vehicle keep to the left of the road except where the road runs along the slopes of mountains in which case an animal-drawn vehicle coming down such slopes and passing another, shall keep to the in or upper side.

(2) Any person contravening any of the provisions of this or the two preceding sections or any of the regulations made under section *eighty-seven* shall be guilty of an offence and liable to the penalties prescribed by section *one hundred and one*.

#### Penalty for Not Providing a Leader in Certain Circumstances.

91. Any driver or other person in charge of a wagon or other vehicle drawn by oxen or other animals not controlled by reins who shall not have a person leading the team attached to that wagon or other vehicle—

(a) when passing through the streets of any township or village or other area prescribed for the purposes of this section by the Administrator by notice in the *Gazette*, such area not being situate within a municipality;

(b) when approaching, passing or being overtaken by any other vehicle, provided that the driver of the overtaking vehicle shall have given adequate warning of his approach;

(c) when approaching or passing through any gateway or drift or over or under any bridge or railway crossing

shall be guilty of an offence and liable to the penalties prescribed in section *one hundred and one* provided that in respect of such other area referred to in paragraph (a) hereof no person shall be convicted of a contravention of this section unless the court be satisfied that the Administrator has caused to be affixed and kept affixed and legible in one or more conspicuous places in or near such area a notice or notices warning the public of the said restriction.

## CHAPTER XI.

## GENERAL.

**Regulations.**

92. (1) The Administrator may from time to time make regulations (not inconsistent with this Ordinance) for all or any of the following purposes, namely—

(a) for prescribing the powers, duties and functions of boards constituted under section *eleven*, and for determining the amount to be paid to members of the board other than *ex-officio* members for travelling and personal expenses while on the business of the board;

(b) subject to the provisions of section *twelve* of Act No. 10 of 1911 for the control, management and working of pons and a tariff of charges in respect thereof;

(c) subject to the provisions of the Public Service Act 1923, or any amendment thereof for prescribing the duties and conditions of employment of employees of the Administration engaged in the administration or execution of the provisions of this Ordinance or the regulations thereunder;

(d) for prescribing the manner in which any notices required by this Ordinance shall be given or served and the nature and duration of such notices, and for requiring owners of farms desiring the opening, closing or deviation of public roads to post and display notices to that effect in the prescribed form at or in prescribed places and during prescribed periods;

(e) for prescribing the method of keeping a registry of outspans and the particulars to be inserted therein and the rights of the public as to the inspection thereof and for compelling owners of land to indicate outspans on their land by means of notice boards;

(f) for protecting from damage or interference any buildings, works or property of the Administration including trees, boreholes, wells, and improvements situate in, under or over any public road or outspan;

(g) for regulating and controlling the connection of private roads with public roads;

(h) generally for the better carrying out of the objects of this Ordinance.

(2) All regulations made under this Ordinance shall be published in the *Gazette*.

**Undermined Ground.**

93. Where it becomes necessary in the interests or the safety of the public to deviate or reconstruct any existing public road owing to the fact that the ground has been undermined subsequent to the creation of the public road the Administrator shall have the right to instruct the mining company or owner of mining property concerned or other person responsible for such undermining to provide for the reconstruction of the old road or the construction of a new road at the expense of such person and failing compliance with such instructions within a reasonable time, the Administrator shall have the right to undertake the work at the expense of the mining company or owner or other person as aforesaid.

**Planting of Trees and General Improvements.**

94. The Administrator shall have the right or may authorize any owner to plant trees or otherwise generally to improve the areas within a public road. Any person wilfully damaging such trees or improvements shall be guilty of an offence and liable to the penalties prescribed in section *one hundred and one*.

**Construction and Maintenance of Crossings over Water Furrows, etc.**

95. The Administrator shall not be liable for the construction or maintenance of bridges or crossings of any description over drains or watercourses made for carrying off flood water or for the protection of public roads.

**Roads and Fences, etc. Existing prior to this Ordinance.**

96. Notwithstanding the provisions of this Ordinance all roads and fences heretofore constructed or erected in accordance with the laws in force before the commencement of this Ordinance shall be considered to be lawfully constructed or erected.

**Term "Administrator" Includes Any Person Authorized by him or Acting on his Behalf.**

97. Wherever in this Ordinance any rights or powers are given to the Administrator the term "Administrator" shall include any person duly authorized by the Administrator or lawfully acting on his behalf.

**Compensation for Damages to Orchards, Gardens, Trees and Crops.**

\*98. (1) Whenever in the course of the opening, construction or maintenance

\* As amended by section *nine* of Ordinance No. 11 of 1940.

of any public road or of a pont by or on behalf of the Administrator any direct damage be done to any orchard, garden or plantation or to any crops or cultivated trees, but not otherwise, the owner thereof shall be entitled to compensation as may be agreed upon by the parties, or failing such agreement as may be determined by arbitration as provided for in section *one hundred*.

(2) Whenever the Administrator has declared, in terms of paragraph (b) of sub-section (2) of section *seven* of this Ordinance, that for purposes of this Ordinance a public road shall exist on any land falling within any of the areas referred to in paragraphs (a) and (b) of the proviso to the definition of 'public road' in section *two* of this Ordinance, where no road was previously in existence or where a road has previously been in existence but has been closed and has defined the course of such road, the owner of the land in question shall, notwithstanding the provisions of sub-section (1) of this section, be entitled, in addition to any compensation which may be payable under sub-section (1) of this section, to compensation in respect of the land taken up by such road, the amount of such compensation to be determined, in case of dispute, by arbitration as provided for in section *one hundred* of this Ordinance.

#### Limitation in Certain Respects of Action for Damages Against the Administration.

99. No action shall lie against the Administration for or in respect of damages sustained or alleged to have been sustained by reason of the default or neglect of the Administration in connection with any matter relating to the state of the roads or bridges under its charge, or in consequence of any act performed by an officer of the Administration in the execution of his duty in connection with such roads or bridges unless:—

(a) written notice thereof clearly and explicitly stating the cause of action and details of the claim shall have been served upon the Provincial Secretary within a period of thirty days after the cause of the action arose; and

(b) such action be commenced within ninety days after the cause of the action arose.

#### Settlement of Differences by Arbitration.

100. Whenever in this Ordinance it shall be provided that any dispute or difference shall be settled by arbitration, such arbitration shall be determined in manner provided by the Expropriation of Land and Arbitration Clauses Proclamation 1902.

#### Penalties.

101. Any person convicted of an offence against this Ordinance or the regulations framed thereunder or failing to perform any duty thereby prescribed shall, if no penalty is specially provided therefor, on conviction be liable to a fine not exceeding fifty pounds or in default of payment to imprisonment with or without hard labour for a period not exceeding six months.

#### Savings.

102. All proclamations, notices, and regulations issued and framed under the provisions of any law repealed by this Ordinance shall, if not inconsistent with the provisions thereof, remain in force until revoked or altered under the provisions of this Ordinance.

#### Short Title.

103. This Ordinance may be cited for all purposes as the Roads Ordinance 1933 and shall come into operation on such date as may be fixed by the Administrator by proclamation in the *Gazette*.

### FIRST SCHEDULE.

#### LAWS REPEALED.

##### SECTION ONE.

<i>Year and No. of Law.</i>	<i>Title or Subject of Law.</i>	<i>Extent of Repeal.</i>
Ordinance No. 5 of 1912	The Roads Ordinance, 1912.....	The whole.*
Ordinance No. 8 of 1913	The Roads Amendment Ordinance, 1913.....	The whole.
Ordinance No. 3 of 1914	The Roads and Outspans Amendment Ordinance, 1914.....	The whole.

\* Except sections *forty-five, forty-six, forty-seven, forty-eight and forty-nine* and Schedule II.

<i>Year and No. of Law.</i>	<i>Title or Subject of Law.</i>	<i>Extent of Repeal.</i>
Ordinance No. 10 of 1923	The Roads Amendment Ordinance, 1923.....	The whole.
Ordinance No. 13 of 1926	The Municipal Main Roads Ordinance, 1926.....	The whole.
Ordinance No. 11 of 1927	The Roads Amendment Ordinance, 1927.....	The whole.
Ordinance No. 19 of 1927	The Roads Fund Ordinance, 1927.....	The whole.
Ordinance No. 7 of 1928	The Roads Amendment Ordinance, 1928.....	The whole.
Ordinance No. 14 of 1928	The Roads Fund Amendment Ordinance, 1928.....	The whole.
Ordinance No. 6 of 1930	The Provincial Roads in Municipalities Ordinance, 1930.....	The whole.
Ordinance No. 10 of 1931	The Roads Amendment Ordinance, 1931.....	The whole.
Ordinance No. 15 of 1931	The Roads (Outspans) Amendment Ordinance, 1931.....	The whole.

## SECOND SCHEDULE.

## SECTION TWELVE.

ROAD BOARDS CONSTITUTED UNDER THE ROADS ORDINANCE, 1912, WHICH SHALL BE ROAD BOARDS CONSTITUTED UNDER THIS ORDINANCE.

<i>Name of Board.</i>	<i>Area of Jurisdiction excluding Municipalities.</i>
The Barberton Road Board.....	Magisterial District of Barberton.
The Bethal Road Board.....	Magisterial District of Bethal.
The Belfast Road Board.....	Magisterial District of Belfast.
The Benoni Road Board.....	Magisterial District of Benoni.
The Bloemhof Road Board.....	Magisterial District of Bloemhof.
The Brits Road Board.....	Magisterial District of Brits.
The Carolina Road Board.....	Magisterial District of Carolina.
The Christiana Road Board.....	Magisterial District of Christiana.
The Ermelo Road Board.....	Magisterial District of Ermelo.
The Germiston Road Board.....	Magisterial Districts of Germiston, Boksburg and Brakpan.
The Heidelberg Road Board.....	Magisterial District of Heidelberg.
The Johannesburg Road Board.....	Magisterial District of Johannesburg.
The Klerksdorp Road Board.....	Magisterial District of Klerksdorp.
The Krugersdorp Road Board.....	Magisterial District of Krugersdorp.
The Letaba Road Board.....	Magisterial District of Letaba.
The Lichtenburg Road Board.....	Magisterial District of Lichtenburg.
The Lydenburg Road Board.....	Magisterial District of Lydenburg.
The Marico Road Board.....	Magisterial District of Marico.
The Middelburg Road Board.....	Magisterial District of Middelburg.
The Nelspruit Road Board.....	Magisterial District of Nelspruit.
The Pietersburg Road Board.....	Magisterial District of Pietersburg.
The Piet Retief Road Board.....	Magisterial District of Piet Retief.
The Pilgrims Rest Road Board.....	Magisterial District of Pilgrims Rest.
The Potchefstroom Road Board.....	Magisterial District of Potchefstroom.
The Potgietersrust Road Board.....	Magisterial District of Potgietersrust.
The Pretoria Road Board.....	Magisterial District of Pretoria.
The Rustenburg Road Board.....	Magisterial District of Rustenburg.
The Schweizer Reneke Road Board.....	Magisterial District of Schweizer Reneke.
The Standerton Road Board.....	Magisterial District of Standerton.
The Springs Road Board.....	Magisterial District of Springs.
The Ventersdorp Road Board.....	Magisterial District of Ventersdorp.
The Vereeniging Road Board.....	Magisterial District of Vereeniging.
The Wakkerstroom Road Board.....	Magisterial Districts of Volksrust and Wakkerstroom.
The Waterberg Road Board.....	Magisterial District of Waterberg.
The Witbank Road Board.....	Magisterial District of Witbank.
The Wolmaransstad Road Board.....	Magisterial District of Wolmaransstad.
The Zoutpansberg Road Board.....	Magisterial District of Zoutpansberg.

No. 10 of 1933.]

[Assented to on the 27th October, 1933.]

(Date of operation, 1st December, 1933.)

(Afrikaans copy signed by Governor-General.)

## AN ORDINANCE

To Consolidate and Amend the Law Relating to the Control and Management of Public Resorts (Mineral Springs and Baths) and to Provide for Matters Incidental thereto.

BE IT ENACTED by the Provincial Council of Transvaal as follows:—

**Repeal of Laws and Savings.**

1. The Ordinances mentioned in the First Schedule to this Ordinance are hereby repealed to the extent set forth in the third column of that schedule; provided that all proclamations notices and regulations issued or framed under the provisions of any Ordinance repealed by this Ordinance shall if not inconsistent with the provisions thereof remain in force until revoked or altered under the provisions of this Ordinance.

**Definitions.**

2. In this Ordinance unless some other meaning is clearly intended—

“Administrator” means the officer appointed under sub-section (1) of section *sixty-eight* of the South Africa Act, 1909, or any amendment thereof acting on the authority of the Executive Committee of the Province of Transvaal;

“government baths” or “the baths” or “baths” means any area which has been placed under the control and management of the board in terms of section *five*;

“board” means the board of trustees constituted under section *three*;

“Gazette” means the *Official Gazette of the Province of Transvaal*;

“local authority” means a city council, town council, village council or health committee constituted under the Local Government Ordinance, 1926, or any amendment thereof;

“prescribed” means prescribed by this Ordinance or by any regulation thereunder.

### Constitution of Board.

3. (1) Notwithstanding anything contained in any law a board of trustees shall be and is hereby constituted for the control and management of the government baths on behalf of the Administrator (to be styled the Mineral Baths Board of Trustees) which shall consist of not less than five nor more than seven members who shall be appointed by the Administrator provided that one of those members shall be nominated by the Minister of Lands and provided further that if the nominating authority shall fail or refuse to make a nomination the Administrator shall make such nomination.

(2) The Administrator shall appoint one of the members of the board as chairman of the board and may appoint any person to act as secretary to the board who shall, however, not be a member of the board unless specially appointed as such.

(3) Subject to the provisions of sub-sections (1) and (4) of this section members of the board shall not hold office for a period not exceeding three years from the date of their appointment as may be notified by the Administrator in the *Gazette* but shall be eligible for renomination and reappointment.

(4) A member of the board shall vacate his seat on the board if he—

(a) becomes insolvent or assigns his estate for the benefit of his creditors;  
(b) becomes of unsound mind or is convicted of an offence and sentenced to imprisonment without the option of a fine;

(c) absents himself from three consecutive meetings of the board without the leave of the board which leave shall not be granted for a period of more than six months in any one year;

(d) resigns his office by writing addressed to the Administrator;

(e) is removed from office by the Administrator for neglect of duty or misconduct or for any good or sufficient reason.

(5) If by reason of any of the causes referred to in sub-section (4) or death a member of the board vacates his seat upon the board his place shall be filled by the Administrator subject to the provisions of sub-section (1) of this section and the person appointed to fill the place of a member so vacating his seat shall hold office for the remainder of the period for which the vacating member was appointed.

(6) A member of the board shall not in or before the board or any committee thereof be present at or take part in the discussion of or vote upon any matter in which he, his spouse, his partner or any person by whom he or his partner is employed or whose attorney or agent he or his partner is, has directly or indirectly any pecuniary interest. On the matter arising he shall at once disclose his interest to the board.

(7) The powers of the board shall not be affected by any vacancy in the membership thereof.

(8) The board shall be a body corporate capable of suing and being sued, of purchasing, holding and alienating land, and subject to the provisions of this Ordinance and as far as may be necessary for the better performance of its functions and duties thereunder of doing such things as bodies corporate may by law do: provided that no loans shall be raised by the board except under the authority of the Administrator in accordance with the provisions of section *eight*.

(9) The board as constituted under this Ordinance shall for all purposes be deemed to be the successor of the Warmbaths Board of Trustees constituted under section *two* of the Warmbaths (Control and Management) Ordinance, 1929, provided, however, that the members of that board shall cease to hold office on the date of the commencement of this Ordinance when the Administrator shall appoint the members of the new board in terms of sub-section (1) of this section.

(10) No matter or thing done or omitted [except in contravention of sub-section (6) of this section] and no contract entered into by the board, and no matter or thing done or omitted by any member or officer or servant of the board or other person acting under the direction of the board shall, if the matter or thing were done or omitted or the contract was entered into in good faith for the purposes of this Ordinance or of any regulation thereunder, subject any such person personally to any action, liability, claim or demand whatsoever; and any expense incurred by the board or any such person aforesaid shall be paid by the board out of its revenues; provided that nothing in this section shall exempt any such member, officer or servant or other person aforesaid from liability to be surcharged with the amount of any payment which may be disallowed by the auditor, appointed by the Administrator under section *twelve* of this Ordinance in the accounts of the board and which such member authorized or joined in authorizing.

## MEETINGS AND PROCEEDINGS OF THE BOARD.

**Meetings and Proceedings of Board.**

4. (1) The board shall hold an ordinary meeting for the dispatch of business as often as may be necessary and determined by the board or chairman thereof but not less than once in every three months.

(2) The chairman of the board (hereinafter referred to as the chairman) may at any time and shall, at the request in writing of three members of the board, call a special meeting of the board; provided that the notice of any special meeting shall specify the objects of the meeting.

(3) Notice of the time and place of every meeting of the board shall be served on every member thereof either personally or by post at his usual place of abode or at his business address. Such notice shall be signed by the chairman or the secretary. The accidental omission to serve on any member of the board such notice as is referred to in this section shall not affect the validity of any meeting.

(4) (a) A majority of the members of the board shall form a quorum.

(b) The chairman shall have a deliberative vote and in the event of an equality of votes shall in addition have a casting vote.

(c) The decision of the majority of the votes at any meeting shall be the decision of the board and shall be final and conclusive.

(5) The minutes of the proceedings of every meeting of the board and any committee thereof shall be regularly entered in books kept for that purpose and shall be confirmed at the same or next succeeding ordinary meeting. Every such minute so entered when signed by a member of the board describing himself as or appearing to be chairman of the meeting at which the minute is confirmed shall in the absence of proof of error therein be deemed a correct record of the proceedings of the meeting of which it purports to be a minute.

(6) (a) The board may appoint out of its own body such and so many standing or other committees, either of a general or special nature for any purpose which in its judgment would be better managed by means of a committee, and, subject to the provisions of the next succeeding sub-section, may delegate to any such committee with or without restrictions or conditions as it may think fit any of its powers and duties except any power of raising money by way of an overdraft or loan. The chairman of the board shall be *ex officio* a member of every such committee.

(b) Every committee shall report its proceedings to the board but except to the extent to which the board so directs the acts and proceedings of the committee shall not require the approval of the board.

(c) Every committee appointed by the board may be dissolved by the vote of a majority of the whole board after notice of motion to that effect at a previous meeting, provided that the finance committee referred to in sub-section (7) may not be dissolved without the approval of the Administrator.

(7) (a) The board shall appoint a finance committee for regulating and controlling the finances of the board.

(b) No expenditure shall be incurred by the board unless provision has been made therefor on a detailed estimate submitted by the finance committee and approved by the Administrator in terms of section *eleven* and every payment from the funds of the board shall be made by the finance committee, who shall submit at each ordinary meeting of the board for information a schedule of all payments made since the last meeting.

(8) (a) Every order, notice or other document requiring authentication by the board shall be sufficiently authenticated if signed by two members of the board, or by the secretary, or by an officer of the board duly authorized thereto by resolution or by regulation of the board.

(b) Every contract and all instruments and documents which the board is lawfully empowered to execute shall be deemed to be duly executed by or on behalf of the board if signed by the chairman or by any one or more members of the board or by the secretary thereto authorized by resolution of the board.

(9) Save as provided herein the board may regulate its own procedure.

**Administrator's Powers to place certain Areas under the Control and Management of the Board.**

5. (1) The Administrator may from time to time by Proclamation in the *Gazette* place under the control and management of the board—

(a) any area or place being Crown land reserved by the Governor-General as being a place of public resort, the control and management whereof have been transferred to the Province of Transvaal in terms of section *twelve* (1) (a) and item 5 of the Second Schedule to the Financial Relations Act, 1913, or any amendment thereof; and

(b) any other property acquired by the board in terms of section *fifteen*.

(2) The areas referred to in the Second Schedule to this Ordinance are hereby placed under the control and management of the board.

#### Functions and Duty of the Board.

6. It shall be the function and duty of the board to control, manage, develop, extend, improve, alter and maintain the baths for the benefit, advantage and enjoyment of the public and to increase its revenue and for that purpose alone it shall utilize such moneys as may from time to time be appropriated by the Provincial Council for the purpose and other revenues of the board under the provisions of this Ordinance as may be necessary.

#### FINANCIAL, REVENUES, BORROWING POWERS, ACCOUNTS AND AUDIT.

##### Revenue of the Board.

7. The revenue of the board shall consist of fees or other moneys received by it or moneys raised by it under the provisions of this Ordinance and fines received or recovered in respect of contraventions of this Ordinance or the regulations thereunder.

##### Borrowing Powers.

8. The board may from time to time obtain advances from any bank by way of overdraft or raise loans in such amounts and on such conditions as may be approved by the Administrator. Such advances or loans may be secured and charged indifferently on the whole of the land, rents, property and revenues of the board.

##### Accounts to be kept.

9. The board shall cause proper books to be provided and true and regular accounts to be entered therein of all sums of money received and paid on account of and for the board and of the several purposes for which such sums of money have been received and paid.

##### Financial Year.

10. The annual accounts of the board shall be made up and an abstract thereof published in the *Gazette* not later than the 31st May in every financial year and for the purposes of this Ordinance the financial year shall be the twelve months ending on and including the thirty-first day of March in each and every calendar year.

(2) The board shall on or before the thirty-first day of May in each and every calendar year submit to the Administrator a report of its operations during the preceding financial year, which report shall be laid before the Provincial Council.

##### Estimates.

11. Not less than fourteen days before the expiry of any financial year the finance committee shall draw up and present at any ordinary or special meeting of the board a detailed estimate of the revenue and expenditure of the board for the next financial year. A copy of such statement shall be recorded in the minutes of the board and shall be forwarded to the Administrator for his approval. The expenditure estimated shall not be exceeded without the consent of the Administrator.

##### Audit.

12. (1) The accounts of the board shall be subject to audit by the Provincial Auditor.

(2) For the purposes of any such audit the provisions of sections *fifty-nine* and *sixty* of the Local Government Ordinance, 1926, or any amendment thereof shall *mutatis mutandis* apply.

#### POWERS AND DUTIES OF THE BOARD.

##### Appointment of Officers and Servants.

13. (1) The board shall appoint such officers and servants (full time or part time) as it may consider necessary and pay such salaries and allowances to any such officers and servants as it may determine provided that no person may be appointed hereunder who is a member of the board or who has been such a member during the preceding six months.

(2) The board may at any time suspend, dismiss or remove such officers and servants upon notice of not less than one month or in the case of misconduct immediately without notice.

##### Power to enter into Contracts.

14. The board may execute departmentally or enter into contracts for the purpose of any work or service which it is itself by this Ordinance empowered



to undertake or carry out. All such contracts lawfully made shall be valid and binding on the board and its successors and all other parties thereto, their successors, heirs or legal representatives (as the case may be).

**Board may Acquire Land.**

15. The board may with the consent of the Administrator acquire by purchase or hire any land, wayleave, water-right or any other property or servitude which may be necessary or desirable for the purposes of this Ordinance.

[as amended by section *one* of ordinance No. 8 of 1939.]

**Board may Alienate Land.**

16. The board may with the consent of the Administrator let, sell or otherwise alienate or dispose of any immovable property of the board provided that all moneys received by the board from the sale of such property shall be used for the redemption and extinction of existing debt, or where no such debt exists, on such capital expenditure as may be recommended by the finance committee and approved by the board. Where no such debt exists the board may, instead of using such moneys for capital expenditure, place the same in any reserve fund established under this Ordinance for future capital purposes in connection with the baths.

The expression "let" as used in this section and in section *seventeen* means lease for any period exceeding nine years and eleven months.

**Board may Establish Townships, etc.**

17. Subject to the provisions of the Townships and Townplanning Ordinance, 1931, or any amendment thereof, or of any law relating to the registration of agricultural holdings, the board may establish townships on any land belonging to the board or lay out plots upon or otherwise subdivide any such land for the purposes of garden allotments, small holdings or agricultural holdings and may, subject to the provisions of section *sixteen* let, sell or otherwise alienate erven or lots situate within the same.

**General Powers of the Board.**

18. The board may from time to time—

(1) establish, maintain and carry on public baths of various types and develop the baths with a view to their being of increased service to the public and conserve, develop and enclose mineral springs on land which is its property or under its control provided that the board shall supply free of charge such number of baths at the baths as may be required by the Administrator for the use and benefit of indigents certified as such by the Provincial Secretary or by a magistrate;

(2) establish, erect, maintain and carry on sanatoria, gymnasia, or other similar institutions in connection with the baths and administer such institutions or lease the same under such terms and conditions as may be approved by the Administrator;

(3) establish, maintain and carry on recreation grounds on any land belonging to or under the control of the board and erect, make, establish, maintain and carry on in connection with such recreation grounds, aquariums, pavilions, dressing-rooms, lavatories and other conveniences and any other buildings and structures of any nature whatever and for any purpose whatever which the board may decide to be necessary or convenient and the general management, regulation and control of the same shall be vested in the board who may from time to time—

(a) determine the charges, if any, to be made for the use thereof or

(b) let the same or portions thereof or any rights therein to any person or club or other body of persons and authorize such person, club or body to make charges in connection therewith;

(4) let or grant, subject to the approval of the Administrator, the use of any such recreation ground and/or buildings appurtenant thereto or any part of such ground or buildings to any school, sports club or association of persons on such terms as the board may decide and permit such school, sports club or association of persons to make charges for admission to such recreation ground;

(5) provide any apparatus for games and recreation in respect of any such recreation ground;

(6) provide and maintain refreshment rooms, cafés and restaurants in any such recreation ground and at any public bath established under subsection (1) of this section and either manage such refreshment rooms, cafés, or restaurants itself or let the same to any person, club or other body of persons on such terms as it may decide;

(7) provide, maintain and carry on places of entertainment in connection with the baths or let the same to any person or persons on such terms as it may decide;

(8) provide, maintain and carry on libraries and reading rooms in connection with the baths;

(9) establish, provide, maintain, regulate and carry on camping grounds and erect buildings thereon for visitors on lands the property or under the control of the board and let the same on such conditions as it may decide;

(10) establish, maintain and carry out such sanitary services in connection with the baths for the removal and destruction of or otherwise dealing with nightsoil, urine, slops, rubbish, carcasses of dead animals and refuse of all kinds;

(11) establish, erect, provide and maintain public lavatories, closets and urinals on any property under its control;

(12) (a) erect, maintain and keep in repair any building required for any of the board's purposes;

(b) erect, maintain and keep in repair dwelling houses with their appurtenant outbuildings for its officers and servants;

(13) plant, trim or remove trees or shrubs at the baths;

(14) establish, equip, maintain and carry on in connection with the baths nurseries and afforestation works for the production and disposal of ornamental trees, plants or timber;

(15) (a) let, sell or otherwise dispose of movable property of the board including waters or mineral products derived from any mineralized spring or articles required or desired by visitors to the baths;

(b) let immovable property of the board for short periods in no case exceeding a period of ten years on such terms and conditions as may be decided by the board;

(16) set apart separate baths for the use of white persons and of natives or Asiatics or other coloured persons or any persons of any race whatsoever married to or living with natives, Asiatics or coloured persons respectively and restrict the use of such baths to such persons;

(17) grant from its revenue gratuities to officers and servants of the board on their final retirement from the board's service on such conditions as it may think fit;

(18) advertise and give publicity to the advantages of the baths;

(19) establish reserve funds for capital or other purposes;

(20) charge fees or make charges in connection with the baths or any other institution, undertaking, sale, article or service which under this Ordinance the board is authorized to establish, provide, undertake or maintain;

(21) with the consent of the Administrator pay from its revenue to members of the board such allowances as it may determine, provided that no fees shall be paid for any attendance at meetings of committees of the board other than ordinary travelling and subsistence allowances;

(22) incur all expenditure necessary for the carrying out of any purpose of this Ordinance which the board is authorized to carry out or of any purpose not specially provided in this Ordinance which the Administrator may determine to be purpose incidental to the exercise of its powers and duties under this Ordinance;

(23) subject to the approval of the Administrator appoint local committees of management and delegate to such committees such powers, functions and duties (including any or all of the powers and duties assigned to the board by Proclamation under section *twenty-six*) as may be prescribed by regulation; provided that no allowance other than prescribed travelling and subsistence allowances, while travelling on the business of the committee, shall be paid to any member of a local committee;

(24) pending the constitution of a local authority for any area placed under the control and management of the board exercise all such powers and carry out all such duties as may be specially conferred or imposed by Proclamation issued under section *twenty-six* of this Ordinance;

(25) sell at such prices as it may think fit all products and by-products resulting from the carrying on of any works or undertakings which the board is authorized to carry on;

(26) establish and maintain aerodromes and parking places;

(27) establish, provide, maintain and carry on parks and gardens;

(28) generally do all things necessary for carrying out all the purposes for or in regard to which the board is authorized from time to time to make, alter or revoke regulations and for carrying into effect all regulations.

#### Regulations.

19. The board may, subject to the approval of the Administrator, from time

to time make, alter or revoke regulations not inconsistent with this Ordinance as to all or any of the following matters:—

(1) For regulating any of the things which the board is empowered under this Ordinance to do, establish, maintain or carry on and the charges to be made in respect thereof and for the recovery of the same;

(2) for regulating the proceedings of the board, the appointment of a vice-chairman in the absence of the chairman of the board, the appointment, powers, duties, remuneration, leave and other privileges of its whole and part-time officers and servants and the rates of travelling and subsistence allowances to be paid to members of the board and of a local committee and to its officers and servants;

(3) for the appointment of local committees of management and for prescribing their powers, functions and duties (including any or all of the powers and duties assigned to the board by Proclamation under section *twenty-six*);

(4) for the management and administration of any reserve fund established by the board under this Ordinance;

(5) for regulating the baths, admission thereto, the preventing of unauthorized access thereto, the opening and closing hours and generally the conditions under which the baths may be used and for preventing persons while suffering from any cutaneous, infectious or contagious disease from entering or using any baths;

(6) for regulating the supply of water to baths and for preventing waste, undue consumption, misuse or contamination thereof;

(7) for prohibiting, subject to the payment of compensation in respect of existing boreholes or wells, the use of water from, or the provision or sinking of, any borehole or well on any premises in cases where it can be proved to the satisfaction of the magistrate that such use, provision or sinking prejudicially affects or diminishes or is likely so to affect or diminish any water supply belonging to or under the control of the board;

(8) for protecting from damage or interference any property under the control and management of the board and for obtaining adequate compensation for property damaged;

(9) for providing for the due and proper care of all lands belonging to or under the control of the board and for prohibiting or regulating grazing thereon and for prescribing the fees if any to be paid in respect of stock kept or depastured;

(10) for the preservation of flora and fauna on any lands belonging to the board;

(11) for planting and preserving trees, flowers and shrubs on any property of the board and for maintaining cutting or removing any such trees and preventing the removal and injury thereof;

(12) for the sale of unclaimed lost property found on the board's premises;

(13) for maintaining order and decency among visitors to the baths and for excluding or ejecting persons who do not conform thereto;

(14) generally for the efficient control and management of the baths.

Every regulation framed by the board and approved by the Administrator shall be published in the *Gazette*.

#### **Power to Impose Penalties for Breach of Regulations.**

20. Any regulation of the board may provide a fine or other penalties for any breach thereof and may also provide for different fines or other penalties in case of successive or continuous breaches but no fine shall exceed fifty pounds.

#### **Penalties where not otherwise provided.**

21. All offences against any regulation of the board shall be deemed to be offences against this Ordinance and every person guilty of such an offence or a contravention of any of the provisions of this Ordinance shall for every such offence be liable to the penalty expressly imposed by the regulation and if no penalty be imposed then to a fine not exceeding ten pounds.

#### **Recovery of Fines.**

22. All fines or other moneys payable in respect of an offence against this Ordinance or any regulation may be recovered before any court of competent jurisdiction.

#### **Default of Payment of Fine.**

23. Whenever any fine shall have been imposed under this Ordinance or of any regulation and the person convicted shall not forthwith pay the same the court imposing the fine may direct that such person be imprisoned with or without hard labour for a period not exceeding one month, if the fine imposed do not exceed five pounds, or for a period not exceeding three months if the fine imposed exceed five pounds, and such person shall be imprisoned as aforesaid unless he shall sooner pay such fine.

**Application of Fines.**

24. Every fine recovered for an offence against any regulation of the board or for any other offence against this Ordinance or any bail forfeited for the failure of any person charged with such offence to appear to answer such charge shall be paid into the revenue of the board.

**Existing Regulations.**

25. The regulations made by the board under any law repealed by this Ordinance shall from the commencement of this Ordinance be of the same force and effect as if they had been made under this Ordinance.

**Additional Powers may be Conferred upon the Board.**

26. Pending the constitution under the Local Government Ordinance, 1926, or any amendment thereof of a local authority for or in respect of any area under the control and management of the board the Administrator may from time to time by Proclamation in the *Gazette* assign to the board any or all of the powers and duties conferred or that may be conferred on health committees under Chapter IX of the said Ordinance.

**Administrator to be Furnished with Reports, etc.**

27. The board shall furnish the Administrator with a certified copy of all minutes of its proceedings in the ordinary course, or of the proceedings of any committee appointed by the board or of a record of any accounts of the board or such reports, statistics and documents, as the Administrator may from time to time require.

**Exemption from Rating.**

28. (1) No assessment rates shall be levied by any local authority upon any land or improvements the property of the board.

(2) Notwithstanding anything contained in sub-section (1) of this section whenever any immovable property of the board has been disposed of such property shall become rateable as from the date of such disposition as if the property had been transferred on that date to the person in whose favour such disposition was made and rates thereon as from that date shall be payable by such person. In respect of the year in which the disposition is made the local authority concerned may assess rates on such property on the same basis as that on which rates on other property within the area of such local authority were assessed for that year and the person in whose favour the disposition is made shall in respect of that year pay such a portion of the rates as is represented by the proportion which the unexpired portion of the year, as from the date of the disposition, bears to the whole year.

**Short Title and date of coming into Operation.**

29. This Ordinance may be cited for all purposes as the Mineral Baths (Control and Management) Ordinance, 1933, and shall come into operation on such date as may be fixed by the Administrator by Proclamation in the *Gazette*.

**FIRST SCHEDULE.****LAWS REPEALED.****(SECTION ONE.)**

<i>Number and Year of Law.</i>	<i>Title or Subject of Law.</i>	<i>Extent of Repeal.</i>
Ordinance No. 5 of 1929	The Warmbaths (Control and Management) Ordinance, 1929	The whole.
Ordinance No. 7 of 1930	The Public Resorts Ordinance, 1930.....	The whole.
Ordinance No. 9 of 1930	The Warmbaths (Control and Management) Amendment Ordinance, 1930	The whole.
Ordinance No. 8 of 1931	The Warmbaths (Control and Management) Amendment Ordinance, 1931	The whole.

**SECOND SCHEDULE.****AREAS PLACED UNDER THE CONTROL AND MANAGEMENT OF THE MINERAL BATHS BOARD OF TRUSTEES.****[SECTION FIVE (2).]**

- I. *Portions of the farm Het Bad No. 832, District Waterberg.*
  - (a) Portion "H", in extent 26 morgen 64,897 square feet.
  - (b) Portion "J", in extent 93 morgen 74,777 square feet.
- II. *Lots in the Township of Warmbaths, District Waterberg.*
  - (a) Lots No. 261, Warmbaths, in extent 10 morgen 234 square rods 20 square feet.
  - (b) Lots No. 262, Warmbaths, in extent 11 morgen 457 square rods 123 square feet.
- III. *Portions of the farm Doornpoort No. 29, District Carolina.*
  - (a) Portion "B", in extent 1,000 morgen.
  - (b) Remaining portion of Portion "C", in extent as such, 398 morgen 53 square rods.
  - (c) Portion "D", in extent 498 morgen 410 square rods.
- IV. *The farm Honnet No. 1190, District Zoutpansberg, in extent 2,194 morgen 120 square rods.*
- V. *A portion, in extent approximately 926 morgen, of the farm "Warmbad" No. 105, District Piet Retief.*

**No. 11 of 1933.—Townships and Townplanning Further Amendment.—Principal Ordinance No. 11 of 1931.***Section 1.—Amends section one of the Principal Ordinance.**Section 2.—Amends section two of the Principal Ordinance.**Section 3.—Confers certain powers on the Administrator in regard to the approval of the layout into lots not exceeding 15 in number. Embodied in the revised print of the Principal Ordinance, immediately after section twenty-nine.**Section 4.—Amends section twenty-four of the Principal Ordinance.**Section 5.—Amends section fifty-six of the Principal Ordinance.**Section 6.—Amends section sixty-one of the Principal Ordinance.**Section 7.—Short Title.***No. 12 of 1933.]****(COMPANIES TAX.)**

[Assented to 1st November, 1933.]

(Date of Operation 15th November, 1933.)

(English copy signed by Governor-General.)

**AN ORDINANCE****To consolidate and Amend the Law relating to the Imposition of a Tax on Companies.**

BE IT ENACTED by the Provincial Council of Transvaal as follows:—

**Levy of Tax.**

1. There shall be charged, levied and collected for the benefit of the Provincial Revenue Fund a tax on companies calculated at the rates and in the manner hereinafter specified.

**Definitions.**

\*2. In this Ordinance, unless inconsistent with the context—

“ Administrator ” means the officer appointed under section *sixty-eight* of the South Africa Act, 1909, or any amendment thereof acting on the authority of the Executive Committee;

“ Commissioner ” means the Commissioner for Inland Revenue or any person lawfully acting in that capacity or on his behalf;

“ company ” means any association, incorporated or registered under any law in force in the Union or elsewhere which carries on business or has an office or place of business in the Province of Transvaal or which received income or to which income accrued from sources within the Province during the year of assessment;

“ Financial Company ” means a company the value of whose holdings, according to the latest balance-sheet, represented by shares, debentures or debenture stock in other companies including foreign companies together with loans to other companies exceeds half the value of the total gross assets of such company according to such balance sheet;

“ taxable income ” means an amount determined by the Commissioner upon the principles and according to the methods prescribed for the calculation of taxable income under the Income Tax Act, 1925 (Act No. 40 of 1925) as amended from time to time, or any Act substituted therefor, received by or accrued to any company during the year of assessment;

“ dividend distributed ” shall include any sum of money, bonus share or other equivalent of money paid, allocated, distributed or credited by a financial company to or amongst its shareholders or members as such.

“ year of assessment ” means the period of twelve months ending on the 30th June immediately preceding the date on which the tax imposed on companies other than financial companies is due ”.

**Rates of Tax.**

†3. Subject to a minimum payment of £5 in respect of each and every year of assessment the rates of tax payable by companies shall be—

in respect of companies other than financial companies for each pound of taxable income, seven pence;

in respect of financial companies for each pound of dividend distributed, one shilling.

**Companies to Render Returns.**

‡4. (1) Every company, other than a financial company, shall if required to do so, render to the Commissioner such return or declaration as may be required by him for the purpose of assessing the amount of tax payable by such company.

\* As amended by section *two* of Ordinance No. 13 of 1938.

† As amended by section *three* of Ordinance No. 13 of 1938 and section *one* of Ordinance No. 13 of 1940.

‡ As substituted by section *four* of Ordinance No. 13 of 1938.

(2) Every financial company shall, within thirty days after the date on which any dividend is declared by such company, render to the Commissioner, in such form as he may prescribe, a return of the amount of the dividend declared and any other particulars required for the purpose of assessing the amount of tax and any other particulars required for the purpose of assessing the amount payable by such company.

(3) The duty of rendering any returns and of paying any tax in terms of this Ordinance shall be upon the person holding the office of public officer of any company under the provisions of the Income Tax Act, 1925 (Act No. 40 of 1925) as amended from time to time or any Act substituted therefor or upon such other person as the Commissioner may designate.

(4) For the purpose of determining the tax liability of any company under this Ordinance, the Commissioner or any Receiver of Revenue may require any such company to produce for inspection any Union Income Tax assessment, or any book, account or other document necessary to establish the amount of tax payable by such company.

(5) Every declaration or return or other document rendered for the purposes of this Ordinance shall be treated as confidential and shall not be used or divulged in any way whatsoever except for the carrying out of this Ordinance or by order of a competent court of law and no access thereto for any other purpose shall be permitted.

#### Penalties.

5. (1) Any person who fails, neglects or refuses to furnish any declaration or other documentary proof prescribed in the preceding section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding £50 or in default of payment to imprisonment for a period not exceeding three months.

(2) Any person who, with intent to evade, or to enable any company to evade taxation, shall wilfully and knowingly make a declaration which contains any misstatement or which conceals or fails to disclose any fact necessary for the correct assessment of tax, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding £100 or in default of payment to imprisonment for a period not exceeding six months.

(3) In the event of any person failing to make a declaration when required to do so, the Receiver of Revenue shall assess the tax payable by such company and the assessment thus made shall be final and conclusive as to the liability of such company under this Ordinance.

#### When Taxes Due and Payable.

\*6. (1) The taxes by this Ordinance imposed shall be due—

(a) in the case of companies other than financial companies on the first day of July in each and every year;

(b) in the case of financial companies on the date on which any dividend is declared, provided that in any year of assessment during which no dividend is declared the minimum tax payable in respect of such year shall be due on the first day of July,

and shall be paid within such period as the Commissioner may prescribe in the notice of assessment or of additional assessment issued by him.

(2) In the event of the liquidation of any company during the year of assessment, any tax payable by such company shall be due on the date of liquidation and the duty of rendering returns and of paying the tax in terms of this Ordinance shall be upon the liquidator of such company.†

#### Issue of Assessments to Companies.

6bis. (1) The Commissioner shall cause to be issued to every company liable for tax, a notice of assessment of the amount payable under this Ordinance, and every such notice shall be conclusive as to the liability of such company for the amount stated therein.

(2) If at any time it is ascertained that the amount properly chargeable under this Ordinance is less than the amount actually paid by any company, the Commissioner may refund the amount overpaid.

(3) If the amount actually paid by any company is found to be less than the amount properly chargeable under this Ordinance, the Commissioner shall issue a notice of additional assessment for the amount underpaid.

#### To whom Payable.

†7. Any tax payable under this Ordinance shall be paid to the Receiver of the district within which the company has its principal office or place of business within the Province or at such other place as the Commissioner may direct.

\* As substituted by section *five* of Ordinance No. 13 of 1938.

† Added by section *six* of Ordinance No. 13 of 1938.

‡ As amended by section *seven* of Ordinance No. 13 of 1938.

**Apportionment.**

8. Where it is established to the satisfaction of the Commissioner that a portion of a taxable income or dividend distributed is exempt from taxation by virtue of the provisions of section *ten* the Commissioner shall determine the proportion subject to taxation under this Ordinance.

**Valuation of Dividend.**

\*9. (1) If any dividend is distributed otherwise than in money and the Commissioner is not satisfied with the value returned of such dividend, he shall fix such value for the dividend as may seem to him to be fair and reasonable, and recover any additional tax payable by reason of such increased valuation.

**Apportionment of Dividend.**

(2) Where the business of a financial company extends outside the Province, any dividend distributed shall be apportioned by the Commissioner, and the taxable proportion shall be in the ratio that the gross assets in the Province bear to the total gross assets according to the latest balance-sheet at date of payment. Provided that the gross assets in the Province shall include any holdings by way of shares, debentures or debenture stock in any company whose principal business is carried on in the Province irrespective of the locality where such holdings are deposited or the dividends or interest are paid or payable.

(3) Where a dividend is distributed free of the tax imposed on dividends by this Ordinance, there shall be added to such dividend the difference between the amount so distributed and the amount which would have been distributed had the dividend been paid subject to the tax. The sum so ascertained shall for the purposes of this Ordinance be deemed to be the dividend distributed.

**Exemptions.**

†10. There shall be exempt from taxation—

(1) in terms of sub-section (1) of section *three* of Act No. 5 of 1921 any portion of a taxable income or any portion of a dividend distributed which is derived from mining operations carried on within the Province, or from rights in or to mines or minerals within the Province;

(2) any taxable income that is derived from a source outside the Province;

(3) any company which does not carry on business for the purpose of profit or gain which is to be divided amongst or credited to the shareholders or members thereof;

(4) any portion of a dividend distributed by a financial company out of dividends which have already been taxed as a dividend distributed under this Ordinance;

(5) any dividend distributed on the winding up of a company;

(6) any mutual life assurance company;

(7) any portion of the taxable income derived by a non-mutual life insurance company from sources within the Province, which is distributed amongst the policy holders of such company.

(8) any company which during the whole of the year of assessment was in a dormant state, received no income and carried on no active operations for the benefit of its shareholders or members.

**Special Exemptions.**

11. A financial company liable to the tax on dividends distributed shall not be liable to the tax on taxable income.

**Penalty for Late Payment.**

†12. (1) Any person who without reasonable cause fails or neglects to pay any tax due under this Ordinance within the period prescribed by the Commissioner in the notice of assessment or of additional assessment issued by him shall be guilty of an offence and liable on conviction to a fine not exceeding ten pounds (£10) or in default of payment to imprisonment for a period not exceeding one month.

(2) If any tax due under this Ordinance is not paid on or before the date prescribed by the Commissioner in the notice of assessment or of additional assessment issued by him, there shall be payable in addition to the tax, a penalty calculated from such date upon the amount of the tax over the period during which such tax remains unpaid, calculated in accordance with the following rates, that is to say—

30 per cent. per annum if the tax does not exceed £10;

20 per cent. per annum if the tax exceeds £10, but does not exceed £25;

15 per cent. per annum if the tax exceeds £25, but does not exceed £50;

12 per cent. per annum if the tax exceeds £50;

Provided that the amount of the penalty shall not exceed the amount of the tax.

\* Sub-sections (4) and (5) deleted by section *nine* of Ordinance No. 13 of 1938.

† As amended by section *nine* of Ordinance No. 13 of 1938.

‡ As amended by section *ten* of Ordinance No. 13 of 1938.

**Recovery of Tax.**

13. Any tax imposed and any penalty incurred under the provisions of this Ordinance shall be a debt due to the Provincial Revenue Fund of the Transvaal and may, when payable, be sued for and recovered by action in any court of competent jurisdiction by the Commissioner suing on behalf of the Administrator.

**Provincial Revenue Fund to be Credited.**

14. All fines recovered for any offence under this Ordinance shall be paid into the Provincial Revenue Fund.

**Prescribed forms.**

15. The Commissioner shall have the administration of this Ordinance and may from time to time prescribe any forms or declarations required for the purposes of this Ordinance.

**Regulations.**

16. The Administrator may make regulations not inconsistent with the provisions of this Ordinance for the better carrying out of the objects and purposes thereof.

**Savings.**

17. All regulations issued or framed under the provisions of any law repealed by this Ordinance shall if not inconsistent with the provisions thereof remain in force until revoked or altered under the provisions of this Ordinance.

**Repeal.**

18. The following Ordinances are hereby repealed:—

- The Companies Tax Ordinance, No. 8 of 1923.
- The Companies Tax Amendment Ordinance, No. 23 of 1925.
- The Companies Tax Amendment Ordinance, No. 3 of 1927.
- The Companies Tax Amendment Ordinance, No. 7 of 1931.

**Short Title.**

19. This Ordinance may be cited for all purposes as the Companies Tax Ordinance, 1933.

No. 13 of 1933.—**Appropriation (1933-34).**

No. 14 of 1933.—**Personal and Income Tax Amendment.**

No. 15 of 1933.—**Whippet Racing (Control) Amendment.**—*Repealed by the Dog Racing Ordinance, 1940.*

No. 16 of 1933.—**Horse Racing and Betting Amendment.**—*Repealed by Ordinance No. 5 of 1935.*

No. 17 of 1933.—**Education Act Amendment.**

**No. 18 of 1933.]**

LICENSING AND CONTROL OF DOGS.

[Assented to 15th November, 1933.]

(Date of operation 1st January, 1934.)

(*Afrikaans copy signed by Governor-General.*)

**AN ORDINANCE**

**To Consolidate and Amend the Law relating to the Registration and Control of Dogs outside Municipalities.**

BE IT ENACTED by the Provincial Council of Transvaal as follows:—

**Repeal of Laws.**

1. The laws mentioned in the Schedule hereto shall be and are hereby repealed to the extent set forth in the third column of that Schedule together with the provisions of any other law repugnant to or inconsistent with the provisions of this Ordinance.

**Definitions.**

2. In this Ordinance unless some other meaning is clearly intended—

“ Administrator ” means the officer appointed under sub-section (1) of section *sixty-eight* of the South Africa Act, 1909, and any amendment thereof acting on the authority of the Executive Committee of the Province;

“ agricultural ” includes pastoral, viti-cultural and horticultural;

“ authorized officer ” means a justice of the peace, police officer or constable, any person appointed to issue a licence under this Ordinance or an official of the Transvaal Provincial Administration specially appointed by the Administrator with jurisdiction for the purposes of this Ordinance;



“*Gazette*” means the *Official Gazette of the Province of Transvaal*;  
 “health committee” means a health committee constituted under the Local Government Ordinance, 1926, or any amendment thereof;  
 “Municipality” means the area or district placed under a City Council, a Town Council or a Village Council constituted under the Local Government Ordinance 1926 or any amendment thereof;  
 “prescribed” means prescribed by this Ordinance or any regulation thereunder.

#### Licensing of Dogs and Issue of Badges for same.

\*3. (1) Every owner or other person having the custody or control of a dog shall as soon as the same is of the age of six months license such dog and take out in respect thereof a licence and badge as required by this Ordinance; provided that if a breeder of dogs which are registered with the South African Kennel Union, owns or has the custody or control of a dog so registered he shall not be required to take out a badge in respect of such dog;

(2) Such licence shall be issued in the form and manner prescribed by regulation under this Ordinance and shall be renewed annually and with such licence there shall, save as provided in sub-section (1), be issued to the holder thereof a metal badge stamped with the number of such licence and of the year for which it was issued; and if such metal badge be lost or destroyed the licence holder may obtain from the person appointed to issue the same a duplicate of such badge on payment of a fee of two shillings and sixpence.

(3) In respect of any dog which on the first day of January in any year is of the age of six months and over application for such licence or a renewal thereof shall be made within one month after such date and in respect of any dog reaching such age between such date and the thirty-first day of December next ensuing application for a licence shall be made within one month after it reaches such age.

#### Fees.

4. For every such licence or renewal thereof shall be paid—

(a) a sum of five pounds in respect of every dog which in the judgment of the person appointed to issue licences is of the kind known as a kaffir hunting dog or a dog of the greyhound strain or a dog of a similar kind;

(b) a sum of ten shillings in respect of any other kind of dog;  
 provided always that—

(1) every white person who is the resident owner or lessee of a farm or other piece of agricultural land or who, being in actual occupation of any dwelling on a farm or portion of a farm, *bona fide* devotes his time to agricultural operations shall be exempt from the payment of licence duty in respect of one dog of the kind mentioned in paragraph (b) of this section which is used as a watch-dog;

(2) in districts where it can be shown to the satisfaction of the magistrate that owing to the presence of lions and/or leopards losses in live stock are liable to and do occur the Administrator may in writing authorize the exemption from the payment of any licence duty hereunder for any number of dogs not exceeding four the property of the said owner or lessee;

(3) any person may likewise obtain upon payment of the sum mentioned in paragraph (b) of this section a licence or renewal thereof in respect of any dog of the greyhound strain or of a dog of a similar kind which in the judgment of the officer authorized to issue such licence is kept solely for racing purposes;

(4) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a breeder of dogs which are registered with the South African Kennel Union shall pay annually only the following fee:—  
 racing purposes.

more than ten dogs ... .. £5

#### Issue of Licence not necessary in case of a Watch Dog but Application must be made for Metal Badge.

5. The owner or other person having the custody or control of any such dog as is referred to in proviso (1) to section four shall each year within the period prescribed by sub-section (3) of section three make application on the prescribed form for the metal badge required to be issued in terms of this Ordinance and shall cause the badge issued in respect of any such year to be worn at all times by the dog in respect of which it was issued.

#### Production of Licence on Demand.

†6. Every person who has in his possession or custody or under his control a dog in respect of which a licence is under this Ordinance necessary shall if requested by any authorized officer and within fourteen days after such

\* As amended by section one of Ordinance No. 8 of 1943.

† Sub-section (2) repealed by section two of Ordinance No. 8 of 1943.

request produce or cause to be produced for inspection any such licence and the dog in respect of which it was issued.

**Metal Badge to be worn by Dog in respect of which it was issued.**

\*7. If a metal badge or duplicate metal badge has been issued in terms of section *three* or *five* the owner or the person having the custody or control of the dog in respect of which the badge was issued shall cause the badge to be worn by such dog at all times during the currency of the badge.

**Destruction of Dogs Trespassing or without Badges.**

†8. Any dog may forthwith be destroyed—

- (a) by or on the order of the owner, lessee or occupier of a farm or portion of a farm if found trespassing thereon and not being under the control and custody of any person;
- (b) by or on the order of the owner, lessee or occupier of a farm or portion of a farm if found causing damage thereon;
- (c) by any authorized officer if found in any place without a badge issued in respect of it under this Ordinance or under any municipal by-law or under any regulations made by the Administrator for any health committee unless such dog is under the control of its owner or a person appointed by him and such owner or person satisfies the authorised officer that—
  - (i) the dog is registered with the South African Kennel Union; and
  - (ii) the owner of the dog or the person who has the custody or control of it is a breeder of dogs which are registered with the South African Kennel Union.

**Powers of Authorised Officers.**

‡8*bis*. (1) Any authorised officer may for any purpose connected with the carrying out of the provisions of this Ordinance or the regulations made under this Ordinance, at all reasonable times, without previous notice enter upon any land or enter any premises whatsoever, take with him on to any such land or premises an interpreter or other assistant and make such examination and inquiry as he may deem necessary. For the purposes of this section any such person shall, while acting under the lawful direction of the authorised officer he accompanies be deemed to be an authorised officer.

(2) Any authorised officer may while he is on such land or premises or at any other time and place question either alone or in the presence of any other person, as he thinks fit, any person who in the opinion of such authorised officer may be able to furnish any information desired by him for any purpose aforesaid.

(3) Any person by whom any land or premises are occupied and any employee of any such person shall upon the request of an authorised officer furnish to the authorised officer such facilities as are required by him for entering upon the land or for entering the premises or in the exercise on such land or premises of his powers under sub-sections (1) and (2).

(4) Any person who—

- (a) makes any statement to an authorised officer which is false in any material particular knowing the same to be false; or
- (b) refuses or fails to answer to the best of his ability any question which an authorised officer has put to him in the execution of his powers or duties under this Ordinance or the regulations made under this Ordinance; or
- (c) refuses or fails to comply to the best of his ability with any requirement made by an authorised officer in the execution of his said powers or duties; or
- (d) resists or hinders or obstructs any authorised officer in the execution of any of the powers or duties conferred upon him by this Ordinance or the regulations made under this Ordinance; or
- (e) falsely holds himself out as an authorised officer; or
- (f) contravenes or fails to comply with any of the provisions of sub-section (3);

shall be guilty of an offence and liable, on conviction, to a fine not exceeding £50, and in default of payment, to imprisonment with or without hard labour for a period not exceeding six months.

**Power to make Regulations.**

9. The Administrator may from time to time make, alter and repeal regulations—

- (a) prescribing the forms to be used for the purposes of this Ordinance, forms of licences and metal badges to be issued under this Ordinance;
- (b) prescribing the persons by whom such licences and badges shall be issued, the form of application for any particular class of licence and the

\* As substituted by section *three* of Ordinance No. 8 of 1943.

† As amended by section *four* of Ordinance No. 3 of 1943.

‡ As added by section *five* of Ordinance No. 8 of 1943.

maximum number of licences and badges which may be issued to persons residing in any particular area defined by Proclamation of the Administrator in the *Gazette*;

(c) generally making provision for all matters deemed necessary for the due administration of and for giving full effect to the provisions of this Ordinance, and he may by such regulations impose penalties for any contravention thereof not exceeding a fine of five pounds or in default of payment imprisonment with or without hard labour for a period of one month.

#### Penalties.

\*10. (1) Any person required by this Ordinance to have a dog licensed who does not obtain the proper licence in respect thereof within the period prescribed by section *three* or who fails to produce the same or the dog in respect of which it was issued when required in accordance with section *six* shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five pounds or in default of payment to imprisonment with or without hard labour for a period not exceeding one month.

(2) Any person found in possession or being the owner or having the custody or control of a dog in respect of which the wearing of a metal badge is compulsory which is not wearing a current metal badge as required by this Ordinance shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one pound or in default of payment to imprisonment with or without hard labour for a period not exceeding fourteen days.

(3) Any person who shall—

(a) fabricate any document or piece of metal with intent that such document shall be used as a licence or such piece of metal shall be used as a badge issued under this Ordinance;

(b) use or utter any fabricated document or piece of metal well knowing the same to have been fabricated with the intent aforesaid;

(c) steal or be found in possession (without being able to account satisfactorily for such possession) of a licence or badge issued under this Ordinance to another person; shall be guilty of an offence and shall be liable on conviction to imprisonment with hard labour for a period not exceeding two years or a fine not exceeding £50.

#### Presumptions.

†10*bis*. Whenever a dog is not wearing a current metal badge as required by section *three* or *five* it shall in any proceedings against any person under section *three* read with sub-section (1) of section *ten* be deemed that a licence has not been obtained in respect of that dog for the period in question, unless the contrary is proved.

#### Certain provisions of this Ordinance not to apply to Local Authority Areas where By-laws or Regulations exist for Licensing of Dogs.

11. Nothing in this Ordinance contained relative to licences or to the issue or wearing of badges shall apply to dogs kept within a municipality or an area under the jurisdiction of a health committee in which by-laws or regulations as the case may be are in force as to the licensing of dogs.

#### Savings.

12. All proclamations, notices and regulations issued and framed under the provisions of any law repealed by this Ordinance shall if not inconsistent with the provisions thereof remain in force until revoked or altered under the provisions of this Ordinance.

#### Short Title and date of taking effect.

13. This Ordinance may be cited for all purposes as the Licensing and Control of Dogs Ordinance, 1933, and shall take effect from and after the first day of January, 1934.

#### SCHEDULE.

##### LAWS REPEALED.

<i>Number and Year of Law.</i>	<i>Title or Subject of Law.</i>	<i>Extent of Repeal.</i>
Act No. 23 of 1907 (Transvaal)	The Registration and Control of Dogs Act, 1907.....	The whole.
Ordinance No. 7 of 1922	The Registration and Control of Dogs Amendment Ordinance, 1922	The whole.
Ordinance No. 20 of 1925	The Registration and Control of Dogs Act Amendment Ordinance, 1925	The whole.

\* As amended by section *two* of Ordinance No. 6 of 1939 and section *six* of Ordinance No. 8 of 1943.

† Added by section *seven* of Ordinance No. 8 of 1943.

**No. 19 of 1933. —Motor Vehicle Amendment.—Principal Ordinance, No. 17 of 1931.**

*Section 1.*—Amends section one of the Principal Ordinance.

*Section 2.*—Amends section two of the Principal Ordinance.

*Section 3.*—Amends section four of the Principal Ordinance.

*Section 4.*—Amends section five of the Principal Ordinance.

*Section 5.*—Amends section seven of the Principal Ordinance.

*Section 6.*—Amends section twelve of the Principal Ordinance.

*Section 7.*—Amends section thirteen of the Principal Ordinance.

*Section 8.*—Amends section fifteen of the Principal Ordinance.

*Section 9.*—Amends section sixteen of the Principal Ordinance.

*Section 10.*—Adds, after section sixteen, a new section sixteen (a) dealing with the operation of unlicensed motor vehicles. Embodied in section sixteen in the revised print—see Ordinance No. 22 of 1940.

*Section 11.*—Makes provision for the payment of licence fees in respect of motor omnibuses owned by local authorities and used outside its area of jurisdiction. Embodied in the revised print, after section 16 in the Principal Ordinance.

*Section 12.*—Amends section eighteen of the Principal Ordinance.

*Section 13.*—Amends section twenty-two of the Principal Ordinance.

*Section 14.*—Amends section twenty-five of the Principal Ordinance.

*Section 15.*—Amends the Afrikaans text of section thirty-one of the Principal Ordinance.

*Section 16.*—Adds a new sub-section (3) to section thirty-three of the Principal Ordinance.

*Section 17.*—Amends section thirty-seven of the Principal Ordinance.

*Section 18.*—Amends section thirty-nine of the Principal Ordinance.

*Section 19.*—Amends section fifty of the Principal Ordinance.

*Section 20.*—Amends section fifty-two of the Principal Ordinance.

*Section 21.*—Amends section fifty-three of the Principal Ordinance.

*Section 22.*—Amends section fifty-five of the Principal Ordinance.

*Section 23.*—Amends section sixty-one of the Principal Ordinance.

*Section 24.*—Amends Item (1) Part III of the First Schedule to the Principal Ordinance.

*Section 25.*—Amends the Second Schedule to the Principal Ordinance.

*Section 26.*—Short Title.

**No. 20 of 1933.]****LOCAL AUTHORITIES RATING.**

(Assented to on the 24th November, 1933.)

(English text signed by the Governor-General.)

**AN ORDINANCE****To Consolidate and Amend the Law relating to the Levying of Rates by Local Authorities.**

BE IT ENACTED by the Provincial Council of Transvaal as follows:—

**Repeal of Ordinance No. 13 of 1928, and Validation of Proceedings taken, etc., under that Ordinance.**

1. From and after the commencement of this Ordinance the Local Authorities Rating Ordinance No. 13 of 1928 shall be and is hereby repealed provided that all acts done, proclamations issued or proceedings taken respectively under that Ordinance before the commencement of this Ordinance shall be deemed to have been done, issued or taken under the provisions of this Ordinance.

**Application of Ordinance.**

2. (1) The provisions of this Ordinance shall apply to every municipality already established or hereafter to be established under the Local Government Ordinance provided that when the Administrator has under the provisions of the next succeeding section declared by Proclamation in the *Provincial Gazette* that the erf tax leviable under article five of Law No. 4 of 1899 or any amendment thereof shall be collected in any municipality the provisions of this Ordinance shall except as hereinafter provided not apply to such municipality for the period prescribed in such proclamation provided further that any valuation roll already made under any law repealed by this Ordinance and in use in any municipality shall subject to the provisions of this Ordinance remain of full force and effect for the period for which it was originally framed.

(2) Save as is provided in the next succeeding section article five of Law No. 4 of 1899 shall not apply to any municipality established as aforesaid.

**Erf Tax may be substituted for Assessment Rates.**

\*3. (1) The Administrator may from time to time by proclamation in the *Provincial Gazette* declare that, for any period of not less than one calendar

\* Proviso added by section one of Ordinance No. 13 of 1939.

year, the provisions of this Ordinance or any amendment thereof shall not apply to a municipality for which a village council or a health committee is constituted under the Local Government Ordinance and that for such period the erf tax leviable under the provisions of article *five* of Law No. 4 of 1899 or any amendment thereof shall be collected in the said municipality.

(2) Whenever under the last preceding sub-section the erf tax is leviable in a municipality such tax shall be paid to the local authority, shall form part of the revenue of the local authority and shall be recoverable as if the same were rates imposed under this Ordinance and the provisions of this Ordinance or any amendment thereof shall apply for the purposes of such recovery.

(3) The Administrator may from time to time remit any erf tax in cases where the land is set apart or used solely for educational, religious, charitable or public purposes: Provided that in the case of Health Committees with the approval of the Administrator an erf tax different in amounts from that laid down in Law No. 4 of 1899, or an erf tax at a flat rate based on the size of erven or portions of erven or lots may be levied.

#### Definition of Terms.

4. In this Ordinance the following expressions shall have the meanings placed opposite to them unless the context clearly requires a different meaning:—

“Administrator” shall mean the officer appointed under sub-section (1) of section *sixty-eight* of the South Africa Act, 1909, or any amendment thereof acting on the advice and with the consent of the Executive Committee of the Province.

“Agricultural land” shall mean arable, meadow, or pasture land, market gardens, poultry farms, nursery gardens, plantations and orchards but shall not include—

- (a) land occupied as a park together with a house thereon; or
- (b) land used as a garden other than as aforesaid; or
- (c) land kept or reserved for the purposes of sport, athletics, or recreation or used as a racecourse.

“Commencement of this Ordinance” shall mean the date which the Administrator by proclamation shall declare to be the date of commencement.

“Educational institution” shall mean and include—

- (a) any university by law established or any constituent college thereof;
- (b) any institution or service duly declared under any law to be included in higher education;
- (c) any school, class or institution established, maintained or aided under the Education Act, 1907, or any amendment thereof or registered at the office of the Department of Education in terms of such Act;
- (d) any other school or institution which the Administrator may from time to time declare by notice in the *Provincial Gazette* to be an educational institution for the purposes of this Ordinance;
- (e) boarding-houses or hostels maintained in connection with any of the institutions mentioned in paragraphs (a), (b), (c) and (d) of this definition.

“Financial year” shall mean the financial year prescribed by section *fifty-six* of the Local Government Ordinance.

“Freeholders’ licence interest” shall mean and include any right in respect of land held under mining title or proclaimed land not held under mining title to receive a portion of—

- (i) the claim licence moneys payable in respect of such land;
- (ii) the licence moneys payable in respect of residential, trading, and industrial stands granted on such land under the Gold Law or any prior law excluding stands in stand townships, as enumerated in the First Schedule to Act No. 34 of 1908 (Transvaal).

(iii) the rents payable under section *three* of the Bewaarplaats Moneys Application Act, 1917;

(iv) the rents payable under sub-section (3) of section *four* of the Transvaal Mining Leases and Mineral Law Amendment Act, 1918;

(v) the rents as and when payable in respect of any surface rights granted under Chapter IX of the Gold Law.

“Gold Law” shall mean the Precious and Base Metals Act, 1908, and any amendment thereof.

“Improvements” shall include all buildings, movable or immovable and shall further include all work actually done or material used upon any land by the expenditure of capital or labour by any owner or occupier of any interest in such land but in so far only as the effect of such work or material used is to increase the value of the interest in land and the benefit thereof is unexhausted at the time of valuation, but shall not include work done or material used on or for the benefit of any interest in land by the Crown or by any local authority unless such work or material has been paid for by the contribution of the owner or occupier for that purpose and such work or material has not become the property of the Crown or such local authority;

provided that the payment of rates or taxes shall not be deemed to be a contribution within the meaning of this definition and provided further that "improvements" shall not include any overhead lattice power poles or pole lines or any tubular poles or pole lines or underground air pipes or lines or underground water pipes or underground cables in, on or under any land held by any power undertaking.

"Industrial stand licence" shall mean an industrial stand licence granted under the Gold Law.

"Interest in land" shall mean and include—

(1) the dominium in land or the usufruct thereof;

(2) the right in and over land under a stand licence including an industrial stand licence;

(3) any lease of or right or concession over land for a period of not less than ten years or for the natural life of any person mentioned therein, or which is renewable from time to time at the will of the lessee indefinitely or for periods which together with the first period thereof amount in all to not less than ten years whether such renewal is dependent on the periodical consent or permission of, or the periodical renewal of a licence by the Union Government, the Administrator or any statutory administrative or licensing body, or not; provided that any lease of or right or concession over land for the purpose of any racing in connection with which betting is carried on by means of a totalisator or otherwise, shall be deemed to be an interest in land.

(4) any servitude over land;

(5) (i) any user of land held under mining title or of proclaimed land not held under mining title for residential purposes or for purposes not incidental to mining operations whether by persons engaged in mining operations or otherwise;

(ii) any occupation, by reason of the existence thereon of buildings and improvements, of land held under mining title or of proclaimed land not held under mining title (not being land in a lawfully established township), where no lawful authority for such occupation under any law relating to the exploitation of precious and base metals exists, and where such buildings and improvements are used for residential purposes or for purposes not incidental to mining operations;

(6) any lease of land from the Crown or any lease of a trading stand which has been granted by the board constituted in accordance with section *eighty-three* of the Gold Law;

(7) any lease of a trading stand or any right acquired under the Trading on Mining Ground Regulation Act, 1910, or any amendment thereof to carry on business upon a trading site;

(8) any freeholders licence interest;

(9) any occupation of buildings and improvements (not being on land in a lawfully established township) whether movable or immovable used for residential purposes or for purposes not incidental to mining operations, situate on land held under mining title or on proclaimed land not held under mining title, in respect of the erection, maintenance or occupation of which buildings and improvements no lawful authority under the provisions of any law relating to the exploitation of precious and base metals exists. "Occupation" for the purposes of this definition shall mean the actual occupation of or the exercise of ownership in respect of such buildings and improvements.

"Local authority" shall mean a city council, or a town council, or a village council, or a health committee duly constituted under any law relating to municipal government in the Province of Transvaal.

"Local Government Ordinance" shall mean the Local Government Ordinance, 1926, and any amendment thereof.

"Mayor" shall mean the mayor or deputy-mayor of any city council or town council or the chairman or deputy-chairman of any village council or the chairman of a health committee.

"Mining title" shall mean mining title as defined in the Gold Law.

"Municipality" shall mean the area or district under the control and jurisdiction of a local authority.

"Occupier" shall mean and include any person in actual occupation of rateable property without regard to the title under which he occupies.

"Open proclaimed land" shall mean and include all proclaimed land (that is to say land proclaimed a public digging under the Gold Law or Law No. 15 of 1898 or any prior law provided such land has not been lawfully deproclaimed) which is not held under mining title or surface right and which has not been reserved or granted for any purpose under the Gold Law.

"Owner" shall mean and include—

(1) the person or persons in whose name shall be registered the legal title to any rateable property as herein defined;

(2) in the case of any land held under a stand or claim licence or any other mining title issued under any law relating to mining for precious stones or for metals the registered holder of such licence or title;

(3) in any case where property 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 Gold Law, the lessee thereof;

(4) the holder of any lease of a trading stand or any right acquired under the Trading on Mining Ground Regulation Act, 1910, to carry on business upon a trading site;

(5) any person to whom has been assigned the whole or any portion of the right hereinbefore defined as "freeholders' licence interest";

(6) (a) any person in occupation of buildings and improvements (not being in a lawfully established township) whether movable or immovable used for residential purposes or for purposes not incidental to mining operations, situate on land held under mining title or on proclaimed land not held under mining title, and in respect of the erection, maintenance or occupation of which buildings and improvements no lawful authority under the provisions of any law relating to the exploitation of precious and base metals exists. "Occupation" for the purposes of this definition shall mean the actual occupation of or the exercise of ownership in respect of such buildings and improvements.

(b) Any person, who, by reason of his exercising ownership in buildings and improvements situate thereon, occupies land held under mining title or proclaimed land not held under mining title, not being land in lawfully established township, where no lawful authority for such occupation under any law relating to the exploitation of precious and base metals exists and where such buildings and improvements are used for residential purposes or for purposes not incidental to mining operations;

(7) in cases where the person in whom the legal estate is vested is insolvent or dead the person in whom the administration of such property is vested as trustee, executor, administrator, or otherwise.

"Power undertaking" shall mean and include the Victoria Falls and Transvaal Power Company, Limited, the Rand Mines Power Supply Company, Limited, and any other person or company whose business includes the sale or supply of light, heat or power whether in bulk or otherwise.

"Rateable property" shall mean and include—

I. land including open proclaimed land and including the whole of any land wholly or partly used for or in connection with any racing in respect of which betting is carried on by means of a totalisator or otherwise.

II. every interest in land as hereinbefore defined with the following exceptions:

(a) Any land or interest in land the property of the Crown; provided that all property vested in the Governor-General-in-Council for railway purposes shall be deemed to be rateable property

(i) if the same is used for residential purposes, or

(ii) if the same is let for residential, industrial or commercial purposes by the South African Railways and Harbours Administration;

(b) any interest in land used exclusively for public worship or for both public worship and education or for a charitable institution supported entirely by voluntary contributions or for a hospital in receipt of a subsidy or grant-in-aid from the Transvaal Provincial Administration, in so far as such interest is held for such purposes as aforesaid;

(c) any interest in land used exclusively for an educational institution as herein before defined in so far as such interest is held for such a purpose;

(d) any licence or right to dig for or prospect for precious stones or metals on any portion of land assigned for that purpose; and any portion of land held or occupied exclusively for the exercise of such rights; provided that no land or buildings used for residential purposes or for purposes not incidental to mining operations whether by persons engaged in mining operations or otherwise shall be deemed to come within the exception;

(e) any interest in land laid out and used for the purpose of sport or recreation and controlled in accordance with rules approved by the local authority in so far as such interest is held for such purposes as aforesaid, provided however, that where the owner of such interest is a person, association or company other than the person, association or company which has the beneficial user thereof for the purposes aforesaid, the said interest shall not be deemed to be rateable property if it be proved to the satisfaction of the local authority concerned—

(i) that the said interest is exclusively used for the purposes aforesaid in accordance with such rules; and

(ii) that no financial gain or profit whatsoever accrues to the said owner therefrom, and provided further that an interest in land used as a recreation ground conducted for profit or as a race course for any racing in connection with which betting is carried on by means of a totalisator or otherwise shall not be entitled to the benefit of this exemption;

(f) any interest in land situated within the area of jurisdiction of a health committee which—

(i) is held by the Governor-General or by the Government in trust for any future municipal council, or

(ii) is reserved under any law for the use and benefit of a health committee.

III. All improvements in, on or under land any interest in which is herein included.

IV. Any freeholders licence interest.

V. All improvements made on, in or under land held under mining title where such land is used for residential purposes or purposes not incidental to mining operations whether by persons engaged in mining operations or otherwise.

“ Reef Municipalities ” shall mean the municipalities of Springs, Brakpan, Benoni, Boksburg, Germiston, Johannesburg, Roodepoort-Maraisburg, Krugersdorp, Randfontein and any new municipality that may hereafter be constituted in accordance with law out of the foregoing.

“ Site value of land ” shall mean the capital sum which the land or interest in land might be expected to realize if offered for sale on such reasonable terms and conditions as a bona fide seller would require assuming that the improvements, if any, thereon or appertaining thereto had not been made. The site value of land shall include any value due to any licence privilege or concession attached to the site for the time being made: “ Provided that if there exists on any land improvements, the use or erection of which is, at the date of the valuation, prohibited by the conditions of the title to the land or by any law, by-law or regulation, the site value of such land or of any interest in such land shall, during the existence and use of such improvements, include any value which would accrue to such land or interest in land if such use or erection of such improvements were not prohibited ”.

“ Surface right ” shall mean any right granted under Chapter IX of the Gold Law.

“ Town clerk ” shall mean the person for the time being lawfully acting in the capacity of town clerk or of secretary of the local authority.

“ Value of improvements ” in relation to any interest in land shall mean the added value which the improvements give to such interest in land at the date of valuation irrespective of the cost of the improvements; provided that the added value shall in no case exceed the amount that should reasonably be involved in bringing the site value of the land to its improved value as at the date of valuation, such improved value being the value of such interest in land together with any improvements therein, thereon or thereunder if valued together as a whole under the provisions of section *nine* of this Ordinance.

#### General Valuation.

5. (1) The local authority shall from time to time but not less than once in every three years cause a valuation of all rateable property within the municipality to be made, provided, however, that should such valuation not be completed until after the expiry of the three years aforesaid, the local authority shall not then impose any rate on any previous valuation but on such valuation when completed; provided further that such valuation shall not be invalidated by reason of not having been completed within such term of three years.

(2) The Administrator may from time to time by proclamation in the *Provincial Gazette* and subject to the provisions of the next succeeding sub-section apply the following provisions to any local authority other than to any of the local authorities mentioned in the First Schedule to this Ordinance for any period not less than five years and for that period the provisions of sub-section (1) hereof shall not apply to such local authority:—

(a) The local authority shall from time to time but not less than once in every five years cause a valuation of all rateable property within the municipality to be made, provided, however, that should such valuation not be completed until after the expiry of the five years aforesaid the local authority shall not then impose any rates on any previous valuation but on such valuation when completed; provided further that such valuation shall not be invalidated by reason of not having been completed within such term of five years.

\* As amended by section *one* of Ordinance No. 9 of 1936 and section *two* of Ordinance No. 13 of 1939.



(3) Before the Administrator shall exercise the power conferred upon him under the last preceding sub-section, the local authority desirous of having the provisions of paragraph (a) thereof applied to it shall furnish him with—

- (a) a certified copy of the resolution of the local authority to petition for the application of the said provisions;
- (b) a certificate under the hand of the town clerk that the said resolution was agreed to by not less than two-thirds of the members of the local authority and was published at least once a week during three successive weeks in the *Provincial Gazette* and in one or more newspapers circulating in the municipality;
- (c) copies of any objections against the local authority's proposal or, if none has been lodged, a statement to that effect.

#### Appointment of Valuer.

6. The local authority shall by resolution appoint one or more competent persons hereinafter called the valuer or valuers to compile any valuation.

The said valuer or valuers may by the said resolution be appointed—

- (a) to compile a general valuation such as is referred to in section five; or
- (b) to compile any interim valuation; or
- (c) to compile all general and interim valuations required during a triennial or quinquennial period such as are required by section five; or
- (d) for a term of years or for an indefinite period to compile all general and interim valuations during such period.

#### Declaration of Valuer.

7. Every valuer shall, upon his appointment as aforesaid, before entering upon his duties, make before a Justice of the Peace a solemn declaration in the terms following:—

"I.....do solemnly and sincerely declare that I will to the best of my skill and knowledge and without fear, favour or prejudice truly and impartially appraise and value all such rateable property as I shall be required to value for the purpose of assessment, and that I will conscientiously value the same at and for the full and fair value thereof. And I make this solemn declaration conscientiously intending to fulfil the same.

Declared at.....this.....day of.....

Before me.....  
and every such declaration shall be lodged with and preserved by the local authority.

#### Provisional Valuation Roll.

8. The valuer or valuers shall prepare the said valuation (herein referred to as the valuation roll) in writing in such manner as to show in each case to the best of his or their knowledge and opinion:—

##### I. In every municipality—

- (a) the name and address of the owner of the property valued;
- (b) the description and situation of the property valued and if the said property is agricultural land the area valued as provided in sub-section (3) of section nine;
- (c) the nature of the interest of the owner;
- (d) the site value of the land or interest in land not included in II and III;

- (e) the value of any improvements thereon;
- (f) in respect of every freeholders licence interest (instead of the site value of the interest)—

(i) the "1932 percentage" of gross annual revenue paid by the owner in respect of the said interest ascertained as directed in sub-section (2) of section twenty-two;

(ii) the ascertained difference between the "1932 percentage" and twenty per cent.

##### II. In the Reef Municipalities and in the Municipality of Nigel—

- (g) (i) the site value of land held under mining title (not being land in a lawfully established township) where such land is used for residential purposes or for purposes not incidental to mining operations by persons or companies engaged in mining operations (whether such persons or companies are the holders of the mining title or not);

(ii) the value of any improvements thereon both (a) at the date of the valuation and (b) at the date of the commencement of this Ordinance as shown on the valuation roll in force at that date, if the said improvements were then in existence.

##### III. In the Reef Municipalities and in the Municipality of Nigel—

- (h) in respect of any land or interest in land held by any power undertaking which is specified in subsection (1) of section ten—

(i) the site value of the land or interest in land ascertained as directed in the said section;

(ii) the value of any improvements;  
 (j) in respect of any land held by any power undertaking under industrial stand licence—

- (i) the site value of the land both (a) at the date of valuation and (b) at the first day of January, 1933, as shown on the valuation roll in force on that date;  
 (ii) the date when the said interest in land was acquired;  
 (iii) the value of any improvements.

#### **Basis of Valuation.**

\*9. (1) Save as is provided in sub-section (4), (5) and (6) of this section and in section *ten* the amount or sum at which the valuer or valuers shall value for the purposes of the valuation roll any rateable property shall be the capital sum which the same might in his or their judgment be expected to realize if offered at the time of valuation for sale on such reasonable terms and conditions as a bona fide seller would require, due regard being had not only to such particular rateable property but to other properties of similar class, character, value, position and other comparative factors; provided that no lease of land which is not included in the definition of "interest in land" under section *four* of this Ordinance shall in any manner be taken into account in valuing any rateable property in the land which is the subject of any such lease.

(2) In valuing any rateable property under this section, the valuer or valuers shall not take into account any value accruing to such property by reason of the presence of precious stones, precious metals or base metals or minerals therein or thereon.

#### **Agricultural Land.**

(3) Agricultural land shall be valued in the manner described in sub-section (1) of this section and no allowance or deduction shall be made by reason of the fact that the said land is being used as agricultural land or that the user of the said land is by any law or servitude or condition of title restricted to user as agricultural land: Provided that where two or more contiguous pieces of land, any of which is less than three morgen in extent, bona fide and exclusively used as agricultural land and held and occupied by one owner, comprise together an area of not less than three morgen in extent, the whole area so comprised shall for the purposes of this section be deemed to constitute a single area of land and shall be valued accordingly.

#### **Freeholders Licence Interest.**

(4) The freeholders licence interest shall not be valued but the valuer or valuers shall enter and show the said rateable property upon the valuation roll as being held by the person or company who is owner thereof but shall not assess or enter upon the said roll any value in respect of the said rateable property. The valuer or valuers shall comply with the provisions of sub-section (2) of section *twenty-two* in relation thereto.

#### **Surface Rights.**

†(5) Save as is provided in section *ten* the interests in land defined in sub-paragraph (i) of paragraph (5) of the definition of "interest in land" in section *four* and held under surface right for residential purposes or for purposes not incidental to mining operations shall be valued in the manner described in sub-section (1) of this section. The valuer or valuers shall regard the land under such surface right as a piece of freehold land in a township of the area defined in the permit under which the surface right is granted and as if the user thereof were by a condition of title limited to the purposes set out in the said permit and shall take into account the charge, if any, which is payable under the Gold Law in respect thereof.

Any improvements thereon shall be valued as if the same were improvements on freehold land whose user is limited as aforesaid.

Provided that, where a surface right is granted in respect of any land for residential purposes and restricts residence on or occupation of such land to the holder of the said right or the employees of such holder, such restriction shall be disregarded for the purposes of the valuation of either the land or the improvements thereon.

Any improvements thereon shall be valued as if the same were improvements on freehold land whose user is restricted as aforesaid.

#### **Non-legal Occupiers of Proclaimed Land.**

†(6) The interests in land defined in sub-paragraph (ii) of paragraph (5) and in paragraph (9) of the definition of "interest in land" in section *four* shall

\* As amended by section *three* of Ordinance No. 13 of 1939.

† As amended by section *two* of Ordinance No. 9 of 1936, which added the words "in a township" after the word "freehold" where it first occurs in sub-sections (5) and (6), notwithstanding anything to the contrary contained in section *thirty-four*.

be valued in the manner described in sub-section (1) of this section. The valuer or valuers shall regard the land occupied in each case as a piece of freehold land in a township whose extent is the area actually occupied by the occupier.

Any improvements thereon shall be valued as though they were improvements on freehold land.

**Valuation of certain Land or Interests in Land held by Power undertakings.**

10. (1) The rateable property held by any power undertaking in any reef municipality or in the municipality of Nigel described in this sub-section viz:—

(a) any land or interest in land held by a power undertaking under surface right permit granted under the Gold Law for residential purposes or for any purpose not included in paragraph (b) of this sub-section;

(b) any land or interest in land held by a power undertaking in freehold or any other title and traversed by power lines, cables, water and air pipe lines and railway sidings

shall not be valued in the manner described in sub-section (1) or (5) of section nine but the said rateable property shall be deemed by the valuer or valuers for the purpose of the valuation roll to have a site value of seventy-five pounds (£75) per ten thousand (10,000) square feet or such lesser value as the local authority shall from time to time by resolution decide and shall be entered upon the said roll accordingly.

(2) For the purposes of this section the area occupied or deemed to be occupied by any power undertaking in respect of the land or interests in land aforesaid shall be determined as follows, viz:—

(a) In respect of any land or interest in land falling under sub-section (1)

(a) of this section, the actual area granted under such surface right permit;

(b) in respect of any land or interest in land used for any of the purposes mentioned in sub-section (1) (b) of this section—

(i) overhead lattice power pole lines and double tubular pole lines shall be deemed to have a width of 12 feet 6 inches;

(ii) single tubular pole lines shall be deemed to have a width of 6 feet 6 inches;

(iii) underground air lines and all cable lines in the same trench shall be deemed to have a width of 3 feet;

(iv) cables and air and water pipe lines in separate trenches shall be deemed to have a width of 2 feet 6 inches for each trench;

(v) railway sidings shall be deemed to have a width of 14 feet.

The length in each case shall be the actual length of land traversed.

(3) Land held by any power undertaking under industrial licence shall be valued in the manner described in sub-section (1) of section nine.

**Town Clerk and Valuer to have Power of Entry and Inspection.**

11. (1) Every town clerk and every valuer provided with written authority signed by the mayor or town clerk shall for the purposes of this Ordinance have power to enter at all reasonable hours in the daytime into and upon any land or buildings within the municipality and shall also have power to inspect and make extracts from all registers or other records or any deeds or instruments belonging to or in the custody or possession of any Government official or any person in which are contained particulars of any rateable property whether such person is or is not interested in such rateable property. Any person who shall wilfully obstruct the valuer from exercising the powers conferred on him under this section shall be liable to the penalties in the next succeeding sub-section provided.

(2) Every town clerk and every such valuer shall be entitled to call upon the owner or occupier of rateable property for such written particulars in regard to such rateable property as may be necessary for enabling such valuer to make a correct valuation thereof; and any owner or occupier who shall neglect within fourteen days after being called upon as aforesaid to supply such written particulars when called upon to do so shall be liable to a penalty not exceeding twenty pounds in respect of each offence and any person who shall furnish to any valuer a false statement of value or of any other particulars as aforesaid shall be liable on conviction to a penalty not exceeding fifty pounds in respect of each offence.

**Inspection of Provisional Roll. Objections.**

12. When the valuation roll has been completed it shall be laid before the local authority and shall lie at its office for public inspection, and any person may at all reasonable times inspect the same and take copies or extracts therefrom. Subject to the provisions of section thirty-six the local authority shall serve upon every owner of rateable property whose property has been placed upon the valuation roll a notice in writing informing him of the amount at which the said rateable property has been valued and shall by the said notice and by notice published in the *Provincial Gazette* and in one or more news-

papers circulating in the municipality call upon all persons interested to lodge with the town clerk within a specified time not less than thirty days from the date of the first publication of such notice in the form set forth in the Second Schedule written notice of any objections that they may have in respect of the valuation of any rateable property valued as aforesaid or in respect of the omission therefrom of property alleged to be rateable property and whether held by the person objecting or by others or in respect of any other error, omission or misdescription, provided that the town clerk may where he deems it necessary grant extensions of the aforesaid period for lodging objections, and provided further that where two or more entries are objected to on the same grounds by the same person one notice of objection on one form may be lodged in respect of all the said entries in any one township; provided, however, that the particulars required to be inserted in the notice of objection shall be supplied in respect of each and every entry objected to, failing which the objection in respect of which full particulars have not been supplied shall be regarded as null and void. No person shall be entitled to urge any objections before the valuation court hereinafter referred to unless he shall have first lodged such notice of objection as aforesaid.

#### Valuation Court.

13. (1) After the expiration of the time specified in such notice the local authority shall appoint a valuation court consisting of not less than three persons who may or may not be members of the local authority. Every such court shall have a president appointed in the manner provided in sub-section (2) or sub-section (3) of this section as the case may be. The town clerk or some other person appointed by the local authority shall act as clerk of the said court.

(2) (a) In the municipalities of Pretoria, Johannesburg, Germiston, Boksburg, Benoni, Brakpan, Springs, Roodepoort-Maraisburg, Krugersdorp, Randfontein and any other municipality to which the Administrator may by Proclamation in the *Provincial Gazette* declare this sub-section to apply, the Administrator after consultation with the local authority concerned shall appoint a further member of the valuation court who shall be the president, hereinafter called the president. The said appointment shall be made prior to the first sitting of the valuation court to which the president is appointed. The president shall be appointed for a period of three years and shall be eligible for reappointment for a further period or periods of three years. The president shall be an Advocate of the Supreme Court or an attorney or a chartered accountant practising in the Province of Transvaal of not less than ten years standing or a retired magistrate. It shall be lawful for the Administrator to appoint the same person as president of more than one or of all of the said valuation courts.

(b) The president shall be remunerated for his services and the remuneration to be paid in respect of each valuation court shall be determined by the Administrator after consultation with the local authority concerned prior to the making of the appointment and shall be paid by the said local authority.

(c) In the event of the president of any valuation court being unable to perform his duties by reason of absence, illness or any other incapacity [including that arising from the provisions of sub-section (6) hereof] the Administrator shall appoint a person with the necessary qualifications to act as president of the said valuation court during the absence, illness or other incapacity of the president. During the period for which the acting-president is appointed he shall be a member of the said valuation court. Such part of the president's remuneration as is proportionate to the duties performed by the acting-president shall be paid by the local authority concerned to the acting-president and not to the president.

(3) In the municipalities other than those specified in sub-section (2) of this section the members of the said valuation court shall before the first sitting of the said court appoint a president from among themselves. In the event of the president of any valuation court being unable to perform his duties by reason of absence, illness or any other incapacity [including that arising from the provisions of sub-section (6) hereof] the members of the said valuation court shall appoint from among themselves a person to act as president during the absence, illness or other incapacity of the president: provided that the local authority in any such municipality may by resolution passed by a majority of the members of the local authority (of which a certified copy shall be duly furnished to the provincial secretary by the town clerk) apply to the Administrator for the appointment of a president of such valuation court in the manner provided in sub-section (2) hereof. Upon the Administrator being satisfied that the said resolution has been duly passed by the requisite majority he shall appoint a president of such valuation court and the provisions of sub-section (2) hereof shall apply to the said municipality during the period for which the said president has been appointed.

\* (4) Such court shall thereafter at meetings duly called by the president or clerk proceed to consider the valuation roll and the objections made as aforesaid, and shall be entitled to make such alterations or amendments in the valuation roll, either by way of reduction, increase, addition or omission as to it may seem expedient; provided that subject to the provisions of section *thirty-six* no such alteration or amendment shall be made unless and until the person appearing to be directly affected thereby shall have had at least seven days' previous written notice from the clerk of the date of the meeting of the court at which any proposal for such alteration or amendment will be considered, and such person so affected may either forward any objections thereto in writing to the president or clerk before such date or present the same for consideration at such sitting, and the valuation court shall duly hear and consider all such objections: Provided that in lieu of giving the aforesaid seven days' written notice the Clerk may publish the said notice in two or more newspapers circulating in the area of jurisdiction of the local authority on any day or days in the week immediately prior to the week in which the meeting of the Court is to be held to consider the matter in respect of which the notice is given.

(5) At every sitting of such court three members personally present, one of whom shall be the president or acting-president, shall constitute a quorum, and the president or acting-president thereof, shall preside. All decisions of such court shall be arrived at by the vote of a majority of the members personally present, and in case of an equality of votes, the president or the acting-president shall also have a casting vote.

(6) No person shall sit on the hearing of any matter in which he shall be directly interested or concerned as being primarily liable to pay the rates in question or any part thereof.

(7) Subject to the provisions of sub-section (2) of this section in case for any reason there shall be vacancies in the said court or incapacity to act so that a quorum cannot be formed the local authority may at once and without any notice appoint other persons temporarily or otherwise to fill up such vacancies or the places of the members incapable of sitting.

(8) The town clerk, by publication in the *Provincial Gazette* and in one or more newspapers circulating in the municipality, shall give not less than seven days' previous notice of the date fixed for the first sitting of such court.

(9) At every sitting of such court the local authority and any person who has lodged any objection to any valuation, and any person the valuation of whose property is objected to or proposed to be increased or whose property it is proposed to add to the roll, may appear either in person or by counsel, solicitor or admitted and licensed law agent.

(10) At every sitting of such court it shall be competent for the court to call witnesses and to examine any witnesses by whomsoever called on oath and call for the production of all such papers or documents as it may deem necessary and every valuer by whom any valuations under consideration shall have been made shall attend such court and answer on oath all questions which may be put to him by or through the court in regard thereto.

(11) The said court shall keep a record of its proceedings and a note of the assessment objection and finding in regard to each objection, and such court shall cause any deposition taken before it to be taken down in writing and shall authenticate it by the signature of the president or acting president as having been taken before such court, and every such deposition so taken down and authenticated shall be deemed and taken to be evidence in a prosecution for perjury.

#### **Valuation Roll.**

14. When the valuation court has completed its examination of the valuation roll, and has made such alterations and amendments therein as it may deem necessary, the president of the court shall sign and certify the same. He shall further cause an advertisement to be inserted in the *Provincial Gazette* and in one or more newspapers circulating in the municipality not less than twice within a period of one week, informing all persons interested of the completion thereof, and that the same will become fixed and binding upon all parties concerned who shall not before a date fixed in such notice, not being less than one month from the date of the first publication of the aforesaid advertisement, appeal from the decision of the valuation court in manner provided in the next succeeding section.

#### **Right of Appeal.**

† 15. (1) It shall be lawful for any person who has appeared before the Valuation Court in pursuance of an objection lodged by him under section 12 hereof, and who feels himself aggrieved by the value put upon any property owned or

\* As amended by section *five* of Ordinance No. 13 of 1939.

† As amended by section *six* of Ordinance No. 13 of 1939.

occupied by him to appeal within one month from the date of first publication of the advertisement referred to in section *fourteen* against such valuation from the decision of the valuation court to the court of the magistrate of the district and such last-mentioned court shall inquire into such valuation and its decision shall be final and conclusive; provided, however, that if any question of law shall arise as to the principle upon which any valuation has been or should be made it shall be lawful for such magistrate instead of himself deciding such question at the request of the local authority or party objecting to reserve such question of law for decision by the Supreme Court and such question shall be stated in the form of a special case and may be argued before and determined by the Supreme Court. Either such court may make such order as to costs as to it shall seem fit.

(2) It shall be lawful for the local authority to appeal within one month as aforesaid against the decision of the said valuation court in respect of any rateable property in the municipality to the court of the magistrate of the district, and such appeal shall be subject to the provisions set forth in the preceding sub-section in respect of appeals by the owner or occupier of property.

**Power to remit Rates on Rateable Property not in existence to cause Rateable Property omitted to be Valued and to cause Revaluations.**

\*16. Notwithstanding anything in this Ordinance contained it shall be lawful for the local authority from time to time and at any time—

(a) to remit any rate imposed on any rateable property in any case in which such rateable property has been demolished since the date of the making of the valuation roll; and in such other cases as may be approved by the Administrator;

(b) to cause any rateable property omitted from the valuation roll from time to time in force or any new rateable property to be valued by a valuer appointed as hereinbefore provided, and to cause the current rate to be collected in respect thereof and where the said rateable property has been omitted from the said valuation roll to cause to be collected the rates which would have been payable in respect thereof since the confirmation of the said roll had the said omission not been made;

(c) to cause a valuation to be made by such valuer of any rateable property which is sub-divided after the date when the valuation in respect of such property has become final and to cause the valuation to be apportioned by such valuer according to the sub-divisions of the said property, and to cause any rate due in respect thereof to be assessed and collected according to such sub-division;

(d) to cause a fresh valuation to be made by such valuer of any rateable property which from any cause particular to such property arising since the last valuation thereof has materially increased or decreased in value;

(e) to cause any error appearing in the valuation roll from time in force to be corrected by such valuer in any case where a clerical error or an error as to the nature of the interest valued has been made in such roll and to cause any rate due in respect thereof to be collected according to the corrected roll and to cause to be collected or rebated as the case may be the difference between the rates which have been paid and the rates which would have been payable in respect thereof since the confirmation of the said roll if the said error had not been made;

(f) where a part only of any rateable property not separately valued in any valuation roll is or may be subject to a special rate under section *twenty-three* of this Ordinance to cause such valuer to apportion the value of such property appearing in such roll as between the part thereof which is or may be subject to any special rate as aforesaid and the remaining part which is not subject to such special rate;

Provided that—

(i) upon the making of any such interim valuation the same forms shall be observed and the same proceedings taken as nearly as may be *mutatis mutandis* as are hereinbefore set forth with regard to general valuations excepting that in the discretion of the local authority the notices prescribed in section *twelve* need not be published;

(ii) every such valuation, revaluation, correction and apportionment shall be subject to any objection made thereto at the next succeeding sitting of the valuation court;

(iii) in the case of any property which is added to the roll under the provisions of paragraph (b) hereof or the valuation of which is increased under paragraph (d) hereof if at the next succeeding sitting of the valuation court the value of the said property be fixed at a sum less than that on which the last preceding rate has been levied the owner shall be entitled to a refund of any rate paid by him in excess of that which would have

\* As amended by section *three* of Ordinance No. 9 of 1936.

been paid if the rate had been levied on the value as fixed by the said valuation court;

(iv) the valuation court referred to in section *thirteen* shall consider such interim valuation made in accordance with the provisions of this section and any objections made thereto, and the provisions of sections *thirteen*, *fourteen* and *fifteen* shall *mutatis mutandis* apply.

#### **Valuation Roll not to be Challenged or Set aside.**

17. No valuation contained in any valuation roll framed under this Ordinance and no rate based thereon shall be rendered void or be affected by reason of any mistake or variance in the description of any rateable property or in the name of any owner thereof; and no valuation roll made up and authenticated in terms of this Ordinance shall be capable of being challenged or set aside by reason of any informality.

#### **Incidence of Rating.**

\*18. (1) Subject to the provisions contained in this section it shall be lawful and competent for a local authority to impose a rate or rates on rateable property in or for each and every financial year of such amount or amounts in the pound as it shall determine, provided that, anything to the contrary in this section notwithstanding the minimum charge imposed under his section in respect of any interest in land shall be five shillings.

(2) No rate shall be levied upon improvements until a rate (hereinafter called the original rate) of one penny in the pound shall have been imposed on the site value of all land within the municipality as appearing in the valuation roll, and no original rate or rates exceeding in the aggregate one penny in the pound on such value shall be imposed in any one financial year.

(3) Subject to the provisions of the next succeeding sub-section any rate (hereinafter called the additional rate) which is levied in addition to the original rate shall be levied upon the site value of land and, save as is provided in sub-section (5) of this section, no such additional rate or rates exceeding in the aggregate sixpence in the pound on such value shall be imposed in any one financial year.

(4) A local authority may by resolution passed at any ordinary meeting and supported by the votes of a majority of the members of such local authority determine from time to time that a rate of an amount in the pound equal to or less than the additional rate shall be levied upon the value of all improvements in the municipality provided that in such a case the additional rate shall not be of a greater amount in the pound than is necessary together with such rate upon the value of improvements to produce a sum equal to the sum which would be produced by a rate of three pence in the pound on the site value of land and on the value of improvements taken together.

(5) The Administrator may at the request of a local authority sanction the imposition by such local authority of an additional rate higher than is stipulated in sub-section (3) of this section; provided that if the Administrator refuse such request the Provincial Council within one week after such refusal if the Council be then sitting or if the Provincial Council be not then in session then within one week after the first sitting of the Council next after such refusal may by resolution authorize such local authority to impose such higher rate.

#### **Rating of Agricultural Land.**

†19. (1) Notwithstanding anything contained in section *eighteen*, the rates levied upon the site values of land shall be levied only upon one quarter of the site value of such land as is herein specified viz.:—

(i) land laid out and certified as agricultural holdings in terms of the Agricultural Holdings (Transvaal) Registration Act No. 22 of 1919 or any amendment thereof if and so long as the use of such land is restricted to purely agricultural purposes;

(ii) land being not less than one morgen in extent in respect of which the owner is precluded by any law or servitude or condition of title from using the said land otherwise than as agricultural land;

(iii) any other area of land being not less than three morgen in extent which is bona fide and exclusively used as agricultural land; provided that where two or more adjoining pieces of land, any of which is less than three morgen in extent, which are bona fide and exclusively used as agricultural land and which are held and occupied by one owner together comprise an area of not less than three morgen in extent, the whole area so comprised shall for the purposes of this section be deemed to constitute a single area of agricultural land.

(2) The minimum charge imposed under this section in respect of any site value shall be five shilling.

\* As amended by section *four* of Ordinance No. 9 of 1936.

† As amended by section *seven* of Ordinance No. 13 of 1939 and by section *one* of Ordinance No. 15 of 1941.

**Extra Additional Rate on certain Land held by Power Undertakings.**

20. In the reef municipalities and in the Municipality of Nigel, from and after the commencement of this Ordinance, it shall be lawful for the local authority, in addition to the rates referred to in section *eighteen*, to levy in or for each and every financial year a further rate hereinafter referred to as the "extra additional rate" upon the site values of such land or interests in land held by any power undertaking as are specified herein, viz.:—

(a) any land or interest in land held under surface right permit for residential purposes or for any purpose not included in (b);

(b) any land or interest in land held in freehold or any other title and traversed by power lines, cables, water and air pipe lines, and railway sidings;

(c) any land held under industrial stand licence; subject to the following conditions:—

(i) the amount of the said extra-additional rate shall be one and a half times the additional rate on site values levied in terms of sub-section (3) of section *eighteen*, provided that the said extra-additional rate shall in no case exceed the amount of ninepence in the pound;

(ii) the said extra-additional rate shall not be levied upon any land held under industrial stand licence acquired by any power undertaking after the first day of January, 1933;

(iii) the said extra-additional rate shall be levied only upon the site value of any land held under industrial stand licence as shown on the valuation roll on the first day of January, 1933.

**Additional Rate on Improvements on Mining Title Land held by persons Engaged in Mining Operations in Reef Municipalities.**

21. (1) In the reef municipalities and in the Municipality of Nigel it shall be lawful for the local authority to levy the additional rate imposed in terms of sub-section (3) of section *eighteen* upon improvements situate upon land held under mining title (not being land in a lawfully established township) as well as upon the site value of such land where such land is used for residential purposes or for purposes not incidental to mining operations by persons or companies engaged in mining operations whether such persons or companies are the holders of the mining title or not. Provided that:—

(a) the quantum of the rate to be levied thereon shall be diminished in accordance with the following scale:—

(i) from the commencement of this Ordinance until the end of the year 1934, the full additional rate shall be levied upon the value of the said improvements;

(ii) during the year 1935, ninety per cent. of such additional rate shall be so levied;

(iii) during the year 1936, eighty per cent. of such additional rate shall be so levied;

(iv) during the year 1937, seventy per cent. of such additional rate shall be so levied;

(v) during the year 1938 and succeeding years sixty-six and two-thirds per cent. of such additional rate shall be so levied;

(b) the value of the improvements upon which the said additional rate shall be levied shall be as follows—

(i) where the said improvements exist and appear upon the valuation roll at the commencement of this Ordinance, the said additional rate shall be levied upon the value of the said improvements as shown on the valuation roll which is in force at the said date and subject to the continued existence of the said improvements shall continue to be levied upon the said value for the period specified in section *thirty-four*, without regard being had to the value of the said improvements as shown on any subsequent valuation roll;

(ii) where the said improvements shall come into existence and shall be placed upon the valuation roll after the said date, the said additional rate shall be levied upon the value of the said improvements as shown on the valuation roll which shall be in force at the date when the said rate shall be levied.

(2) Notwithstanding anything in this section contained, if in any of the reef municipalities and in the Municipality of Nigel the local authority shall determine that a rate shall be levied upon the value of all improvements in the municipality as provided in sub-section (4) of section *eighteen* such rate shall be levied upon the value of the improvements referred to in this section as shown upon the valuation roll in force at the date when such rate shall be levied.



**Rating of Freeholders Licence Interest.**

\*22. The following provisions shall apply in regard to the rating of every freeholders licence interest:—

(1) Notwithstanding anything contained in section *eighteen*, after the commencement of this Ordinance no rate or rates referred to in the said section shall be levied upon the value of the said interest, but in lieu thereof the local authority shall receive and each owner of the said interest shall pay in and for each and every calendar half year a percentage of the gross revenue which shall have been received by the Department of Mines on behalf of the said owner from the said interest during the preceding calendar half year as shown by the records of the Department of Mines which records shall for the purposes of this Ordinance be accepted as conclusive evidence of the amount of such revenue. The said percentage shall, save as is provided in sub-section (3) of this section, not exceed twenty per cent. of the said gross revenue and shall be determined in the manner set out in sub-section (3), (4) and (5) of this section.

(2) The valuer or valuers shall immediately after the commencement of this Ordinance ascertain in respect of each freeholder's licence interest, the percentage which the amount paid by the owner of the said interest by way of rates levied thereon during the year ended December 31st, 1932, bears to the gross revenue which accrued to the said owner from the said interest during the said year.

The valuer or valuers shall enter upon the valuation roll in respect of each such interest—

(i) the percentage so ascertained—herein called the "1932 percentage";

(ii) the amount per cent. by which the "1932 percentage" exceeds or is less than twenty, herein called the "ascertained difference".

(3) In every case in which the 1932 percentage exceeds 20, the percentage of gross revenue which shall have been received by the Department of Mines on behalf of the said owner from the said interest which shall be paid by the said owner in and for each and every calendar half year shall be the 1932 percentage reduced over a period of years to 20 per cent. by successive annual deductions of one-tenth of the ascertained difference in the manner following, that is to say—

(i) from the commencement of this Ordinance until the end of the year 1934, the percentage of gross revenue which shall be paid by each such owner as aforesaid shall be the 1932 percentage;

(ii) for the year 1935, the percentage of gross revenue which shall be paid by each owner as aforesaid, shall be the 1932 percentage less one-tenth of the ascertained difference;

(iii) for the year 1936 the percentage of gross revenue which shall be paid by each such owner as aforesaid shall be the 1932 percentage less two-tenths of the ascertained difference;

(iv) for the year, 1937 the percentage of gross revenue which shall be paid by each such owner as aforesaid shall be the 1932 percentage less three-tenths of the ascertained difference;

(v) for the year 1938 and the following years the percentage of gross revenue which shall be paid by each such owner as aforesaid shall be the 1932 percentage reduced in like manner by the deduction of a further one-tenth of the ascertained difference in each successive year until the percentage payable becomes 20 per cent.;

(vi) thereafter each such owner shall pay as aforesaid 20 per cent. of the said gross revenue;

provided that it shall be lawful for the local authority by resolution to reduce the percentage payable by each such owner by deducting more than one-tenth of the ascertained difference in any year and to reduce the percentage payable by each such owner below 20 per cent. of the said gross revenue.

(4) In every case in which the 1932 percentage is less than 20 the percentage of the gross revenue which shall have been received by the Department of Mines on behalf of the said owner from the said interest which shall be paid by the said owner in and for each and every calendar half-year shall be the 1932 percentage unless and until the local authority shall by resolution decide that the percentage payable by each such owner shall be increased. It shall be lawful for the local authority by resolution to increase the percentage payable by each such owner up to a maximum of 20 per cent. of the said gross revenue: Provided that—

(i) no such increase shall be made between the commencement of this Ordinance and the end of the year 1934;

(ii) the percentage payable shall not in any one year be increased by the addition of more than one-tenth of the ascertained difference.

\* As amended by section *five* of Ordinance No. 9 of 1936 notwithstanding the provisions of section *thirty-four*.

(5) In the case of any freeholders licence interest which has come into existence or shall come into existence after the thirty-first day of December, 1932, or did not appear on the valuation roll on that date, the percentage of gross revenue which shall have been received by the Department of Mines on behalf of the owner thereof from the said interest which shall be paid by the said owner in and for each and every calendar half-year shall be 20 per cent.: Provided that it shall be lawful for the local authority by resolution to reduce the percentage payable by each such owner below 20 per cent. of the said gross revenue.

(6) (a) The payments required to be made in terms of this section shall be made by the said owners of the said interests to the local authority concerned half yearly in arrear, upon the first day of March and the first day of September in each year for the preceding six months ending December and June respectively.

(b) Notwithstanding anything contained in sub-section (1) hereof, whenever any owner of such interest seeks to transfer the same, the said owner shall, prior to the registration of transfer thereof, pay to the local authority concerned the whole of the percentage, payable in terms of this section, of the gross revenue which shall have been received by the Department of Mines on behalf of the said owner from the said interest during the preceding calendar half year and also that percentage of the gross revenue which shall have been received by the Department of Mines on behalf of the said owner from the said interest during the half year in which the said interest is transferred up to the date of the registration of transfer thereof, which but for the said transfer would have become payable, in terms of this section, in the following half year.

(7) The payments required to be made in terms of this section shall be recoverable and the said owners shall be liable in respect thereof as if the same were rates imposed under this Ordinance and the provisions of this Ordinance shall apply *mutatis mutandis* for the purposes of such recovery. In the case of joint owners of the said interest they shall be jointly and severally liable for the said payments, and the provisions of this Ordinance shall apply *mutatis mutandis* for the purposes of such recovery.

#### Special Rates.

23. Notwithstanding anything herein contained in case any abnormal or extraordinary expenditure shall be incurred by the local authority in respect of some particular area of rateable property over and above expenditure common to the whole municipality, the local authority may by resolution determine that such abnormal or extraordinary expenditure (whether the outlay in respect thereof has or has not actually been made) shall be met in whole or in part by a special rate upon the rateable property of some portion thereof within such particular area to the exclusion of the rest of the municipal area, and subject to the approval of the Administrator fix the amount of such special rate thereon and the persons and times by whom and when the same is payable.

#### Notice of Rates.

24. Every rate imposed by the local authority shall become due and payable upon a day to be fixed by it, of which day and of the amount of which rate the local authority shall give at least thirty days' notice by advertisement in the *Provincial Gazette* and in a newspaper circulating in the municipality and in such other mode as it may by resolution direct.

#### Payment of Rates.

25. (1) Whenever the local authority shall have given such notice as aforesaid of the day upon which such rate will become due and payable it shall be the duty of all persons liable for such rate to pay the amount thereof at the offices of the local authority, failing which defaulters will be liable to legal proceedings for the recovery of the amounts due by them severally.

(2) It shall be competent for a local authority to allow discount, not, however, exceeding two and a half per cent. (2½%), on any rates paid on or before the date on which such rate becomes due and payable under section *twenty-four*.

(3) The local authority shall be empowered to charge and collect interest on arrear assessment rates at a rate not exceeding seven per cent. per annum.

(4) Nothing in this Ordinance contained shall preclude payment of any rate imposed by a local authority by instalments in such equal or varying amounts as may be determined by the local authority.

#### Rates Payable Pending Appeal.

26. When an appeal is pending from the decision of a valuation court any rates levied by a local authority after the president of the valuation court shall have signed and certified the valuation roll but before such appeal shall have

been determined shall in respect of any rateable property against the valuation of which such appeal is pending become due and payable upon such valuation upon the day fixed in terms of section *twenty-four*, and should such appeal result subsequent to the date of the payment of such rate in an alteration of the valuation either by way of increase or decrease, the local authority shall collect or refund the difference as the case may be together with interest at the rate of six per cent. per annum upon the amount so collected or refunded from the date of the payment of the rate to the date of such collection or refund.

#### **Enforcement of Payment of Rates.**

27. If after the time fixed for the payment of any such rate as aforesaid any person fail to pay any rate due by him it shall be competent for the local authority to cause a printed or written demand to be made upon such person to pay the amount stated in such demand within fourteen days after service thereof. And in case any person who shall have had such demand delivered to him personally or left at his ordinary place of residence or place of business or office shall make default it shall be competent for the local authority to apply to the magistrate for a summary warrant to recover such rates from the persons liable to pay the same; which warrant the said magistrate shall grant on production of a list of the names and addresses of the persons so in default and the amount due by them with a certificate by the town clerk or town treasurer that they have been severally required to make payment of the said rates by notice as aforesaid and that such rates are due by them and do not exceed the maximum rates fixed by or under this Ordinance; and every such warrant shall contain every authority and be executed in all respects as though it were a writ of execution issued out of the court of the magistrate and the messenger of the court in executing the same shall conform to such rules and make such charges as are for the time being applicable to writs of execution of such court as aforesaid.

#### **Recovery of Rates.**

28. Notwithstanding the provisions of section *twenty-seven* the local authority may at its discretion after the time fixed for the payment of any such rates as aforesaid recover from the person in default (without further notice or demand) the amount of the rates due by such person irrespective of the amount thereof by action in the court of the magistrate of the district in which the local authority concerned is situate whether the person liable for the same shall be resident within the jurisdiction of such court or not. In case it shall not be possible to effect service of summons within the limits of the jurisdiction of such court as aforesaid then such service shall be effected in such manner as the said court shall direct.

#### **Proceedings for Recovery of Rates unpaid for three months.**

29. When any rate imposed upon any owners of rateable property shall remain unpaid for a period of three months after the date on which such rate shall have been fixed to become due and payable the local authority may at any time within twelve months after the imposing of the rate demand the amount of such rate or any part thereof from any tenant or occupier for the time being of such rateable property to the extent of any rent due and payable by the tenant at the date of the demand, and on non-payment thereof may after one month from the date of such demand recover the same from such tenant or occupier in the same manner as though he were the owner. And every such tenant or occupier shall be entitled to deduct from any rent or other amount payable by him to such owner or his successors in title so much as was paid by or recovered from him and the production of the receipts for such rates so paid by or recovered from such tenant or occupier shall be a good and sufficient discharge for the amount so paid or recovered as payment of rent or other amount.

#### **EVIDENCE.**

30. In any proceedings to impose or recover rates or consequent on the imposing or recovering of any rates, as well as in all other proceedings under the provisions of this Ordinance, the valuation rolls, rate-books, and records of the local authority and all entries made therein and extracts therefrom or certified copies thereof signed by the chairman or town clerk, and also all copies of any newspaper containing any notice necessary to be proved shall upon production thereof alone be *prima facie* evidence of the imposing of such rate and of the contents thereof without any evidence that the notices required by or other requirements of this Ordinance have been complied with; provided that it shall be competent for any party to any such proceedings to prove the contrary.

#### **Owner Liable for Rates.**

31. (1) The person who is the owner of any rateable property at the date

when a rate becomes due and payable in respect of such property under section *twenty-five* of this Ordinance shall be liable for payment of the amount of such rate, and in the case of joint owners of rateable property they shall be jointly and severally liable for the rate due thereon; provided that in the case of an owner's absence from the Province the agent or person receiving the rents of such owner's property shall, on written notice of such owner's liability for any rates thereon from the local authority, be liable for the payment of such rates: provided, however, that such agent's or person's liability for the said rates shall not exceed the amount of any rents actually in his possession on receipt of the said notice, or which may be received thereafter less a deduction of commission at the rate of five per cent.

(2) It shall be lawful for the local authority by notice in writing to require any such agent or person receiving the rents of such owner's property to furnish to the town clerk an account of the rents of such owner's property which he has received. Such agent or person shall furnish such account within fourteen days from the date of such notice.

(3) Neglect or failure to comply with such notice shall be an offence and shall render such agent or person liable on conviction to a penalty not exceeding £20 in respect of each offence. And if the said account so furnished is false in any particular, the person responsible for any false statement therein shall have committed an offence and shall be liable on conviction to a penalty not exceeding £50 in respect of each offence.

#### **Application of Rates.**

32. The proceeds of the rate or rates levied or tax imposed under this Ordinance shall be applied for and towards such municipal purposes as the local authority shall from time to time think fit.

#### **Certain Buildings and Improvements to be Registered with Local Authority.**

33. (1) All movable and immovable buildings and improvements, used for residential purposes or for purposes not incidental to mining operations and situate on land held under mining title or proclaimed land not held under mining title (not being land in a lawfully established township), in respect of the erection, maintenance, and occupation of which no lawful authority exists under the provisions of the Gold Law, shall be registered by the respective owners thereof or their respective agents for the management thereof in a register to be kept for that purpose at the office of the local authority.

(2) Such register shall contain particulars of such buildings and improvements as aforesaid, a description and the extent of the land occupied, and the full names and addresses of the owners or their agents.

(3) Any sale, lease, exchange or alienation of such buildings and improvements shall be registered in manner prescribed in sub-section (1) hereof by the parties to such sale, lease, exchange or alienation within fourteen days from the date thereof.

(4) The person in whose name such buildings and improvements have been registered as aforesaid shall be liable for the payment of all rates due in respect thereof and notwithstanding any sale, lease, exchange or alienation unless the same has been registered as provided in sub-section (3) hereof, such buildings shall be liable to be attached and sold in execution in satisfaction of the amount of such rates.

(5) The local authority may refuse to register the sale, lease, exchange or alienation of any such buildings and improvements as provided in sub-section (3) hereof, unless and until the sums and charges mentioned in section *forty-nine* of the Local Government Ordinance which may be due to the local authority thereof shall have been paid.

(6) Every occupier of any such buildings and improvements shall have a right of action to recover from the person from and under whom he holds such buildings and improvements, so much as was paid by or recovered from him as and for rates in respect of such buildings and improvements and land in terms of the provisions of this Ordinance.

(7) Any person failing to perform the obligations imposed on him in terms of sub-sections (1) and (3) hereof, shall be guilty of an offence and shall be liable upon conviction to a penalty not exceeding £50 (fifty pounds sterling) or to imprisonment with or without hard labour for a period not exceeding three months.

#### **Certain Provisions to remain in Force for Ten Years.**

34. The following provisions of this Ordinance shall remain in force for a period of ten years from the commencement of this Ordinance and thereafter until the Provincial Council shall amend or repeal the same, viz. :—

(1) In section *four* :

- (a) the second proviso to the definition of "improvements";
- (b) the definition of "power undertaking";
- (c) the definition of "reef municipalities".

- (2) In section *eight*:  
Parts I (f), II and III.
- (3) In section *nine*:  
Sub-sections (4) and (5).
- (4) Sections *ten, twenty, twenty-one, and twenty-two.*

**Corrections, etc., to be made to existing Valuation Roll.**

35. As soon as possible after the commencement of this Ordinance the local authority shall cause the valuer or valuers to make all corrections, amendments, additions and erasures to the valuation roll in force at the said date which may be rendered necessary by the provisions of this Ordinance.

**Serving of Notices required by sections 12, 13 and 16.**

36. Every owner of rateable property shall furnish to the local authority concerned an address in the municipality at which the local authority shall serve the notices referred to in sections *twelve, thirteen* (4), and *sixteen* and every local authority shall compile, keep and maintain a register of such addresses. Every such notice shall be served either by delivering the same at the said address or by post, postage paid, and if served by post shall be deemed to have been served at the time when the said notice would be delivered in the ordinary course of post and in proving such service it shall be sufficient to prove that the said notice was properly addressed and put into the post.

**Evidence.**

The local authority shall not be required to serve the notices referred to in the said sections upon any owner of rateable property who has failed to furnish to the local authority an address in accordance with the provisions of this section. In any proceedings under this Ordinance in which the question is in issue whether or not any owner of rateable property has furnished to the local authority an address in accordance with the provisions of this section the onus of proving that such address has been furnished shall be upon the person who alleges that it has been so furnished.

**Serving of Notices, etc.**

37. Save as is otherwise provided in this Ordinance, notices or other documents required to be served under any section of this Ordinance shall be served by delivering the same to or at the residence or place of business of the person to whom they are respectively addressed, or where addressed to the owner or occupier of rateable property, by delivering the same or a true copy thereof to some person on the rateable property, or if there is no person on such property who can be so served, by fixing the same on some conspicuous part of the rateable property; they may also be served by post by a prepaid letter, and if served by post shall be deemed to have been served at the time when the letter containing the same would be delivered in the ordinary course of post, and in proving such service it shall be sufficient to prove that the notice order or other document was properly addressed and put into the post.

Any notice hereby required to be given to the owner or occupier of any premises may be addressed by the description of the "owner" or "occupier" of the rateable property (naming them) in respect of which the notice is given, without further name or description.

**Date of Commencement.**

38. This Ordinance shall come into operation on such date as the Administrator by proclamation in the *Gazette* shall declare to be the date of commencement: Provided, however, that any rates paid by any power undertaking between the 30th June, 1933, and the commencement of this Ordinance in excess of or less than the amount which would have been payable had this Ordinance been in force on the 30th June, 1933, shall be refunded or collected as the case may be by the local authorities concerned

**Short Title.**

39. This Ordinance may be cited for all purposes as the Local Authorities Rating Ordinance, 1933.

FIRST SCHEDULE.

[SECTION FIVE (2).]

LOCAL AUTHORITIES TO WHICH THE PROVISIONS OF PARAGRAPH (a) OF SECTION FIVE (2) OF THIS ORDINANCE MAY NOT BE APPLIED.

Town Council of Benoni.  
Town Council of Boksburg.  
Town Council of Brakpan.  
Town Council of Germiston.  
City Council of Johannesburg.

Town Council of Krugersdorp.  
City Council of Pretoria.  
Town Council of Randfontein.  
Town Council of Rodepoort-Maraisburg.  
Town Council of Springs.

“SECOND SCHEDULE.

(SECTION TWELVE.)

OBJECTIONS

AGAINST AN ENTRY IN THE VALUATION ROLL MADE UP UNDER THE PROVISIONS OF THE LOCAL AUTHORITIES RATING ORDINANCE, 1933, AS AMENDED.

To the Valuation Court of the Municipality (or District) of \_\_\_\_\_  
Year 19\_\_\_\_

The following entry has been made in the Valuation Roll of the above Municipality (or District):—

(Insert the name of the \_\_\_\_\_  
objector and copy of \_\_\_\_\_  
the entry complained of)

I hereby object to the said entry and ask that:—

(State what entry the \_\_\_\_\_  
objector considers should \_\_\_\_\_  
be substituted)

on the following grounds:—

(State reasons for asking \_\_\_\_\_  
for alteration of the \_\_\_\_\_  
entry)

I solemnly declare that during the three years prior to the date hereof:—

(Delete words not applicable.)

(a) The property was purchased by me on the \_\_\_\_\_ 19\_\_\_\_  
for £\_\_\_\_\_ with/without improvements.

(b) The property has been sold by me on the \_\_\_\_\_ 19\_\_\_\_  
for £\_\_\_\_\_

(N.B.—This information must be given whether registration or transfer has taken place or not. If there has been no sale of the property in the specified period, delete this portion of the form.)

Date \_\_\_\_\_ 19\_\_\_\_

Signature of Objector.

VALUATION COURT.  
(NOT to be filled in by Objector.)

Objection by \_\_\_\_\_ No. \_\_\_\_\_  
Township \_\_\_\_\_ Stand No. \_\_\_\_\_

Decision of Court: \_\_\_\_\_

Date \_\_\_\_\_ 19\_\_\_\_

President.

\* As substituted by section eight of Ordinance No. 13 of 1939.

**No. 1 of 1934.—Additional Appropriation (1933-1934).**

**No. 2 of 1934.—Appropriation (Part 1934-1935).**

**No. 3 of 1934.—Transvaal Hospital Nurses Pensions Amendment.**

(Principal Ordinance No. 13 of 1919.)

Section 1.—Defines the terms of the Principal Ordinance.

Section 2.—Amends section 2 of the Principal Ordinance.

Section 3.—Amends section 3 of the Principal Ordinance.

Section 4.—Amends section 4 of the Principal Ordinance.

Section 5.—Amends section 6 of the Principal Ordinance.

Section 6.—Amends section 5 of the Principal Ordinance.

Section 7.—Amends section 7 of the Principal Ordinance.

Section 8.—Amends section 26 of the Principal Ordinance.

Section 9.—Repeals section 30 of the Principal Ordinance.

Section 10.—Enables nurses transferred from the Public Service, or from any other Province or from the Mandated Territory to contribute to the Fund.

This section is now embodied in the revised print of the Principal Ordinance and follows after section 30.

Section 11.—Short Title.

**No. 4 of 1934.—Transvaal Hospital and School Board Officials' Pensions Amendment.**

—Principal Ordinance, No. 14 of 1927.

Section 1.—Defines the term Principal Ordinance.

Section 2.—Amends section 3 of the Principal Ordinance.

Section 3.—Amends section 3 of the Principal Ordinance.

Section 4.—Amends section 4 of the Principal Ordinance.

Section 5.—Amends section 6 of the Principal Ordinance.

Section 6.—Amends section 7 of the Principal Ordinance.

Section 7.—Amends section 8 of the Principal Ordinance.

Section 8.—Amends section 14 of the Principal Ordinance.

Section 9.—Enables officers to contribute to the fund when by the terms of their appointment they are not eligible to contribute, or where temporary officers are appointed to permanent posts. This section is now embodied in the revised print of the Principal Ordinance and follows after section 5.

Section 10.—Repeals section 32 of the Principal Ordinance.

Section 11.—Amends section 33 of the Principal Ordinance.

Section 12.—Short Title.

**No. 5 of 1934.—Transvaal Hospital Officials' (Enabling).**

Section 1.—Provides for H. Cohen—as from the 1st July, 1932—and Mary L. Spencer—as from the 1st August, 1928—to contribute to the Transvaal Hospital and School Board Officials' Pension Fund.

*Section 2.—Short Title.***No. 6 of 1934.—Appropriation (1934-1935).****No. 7 of 1934.—Unauthorized Expenditure (1930-1931 and 1931-1932).****No. 8 of 1934.—Whippet Racting Control Amendment.—Repealed by the Dog Racing Ordinance, 1940.****No. 9 of 1934.—Education Act (Language) Amendment.****No. 10 of 1934.—Local Government Amendment.—Repealed by the Local Government Ordinance, 1939.****No. 11 of 1934.]**

[Assented to 2nd August, 1934.]

(Date of operation 29th August, 1934.)

(English copy signed by the Governor-General.)

**AN ORDINANCE****To make further Provision for the Regulation of Traffic in certain respects and to Prescribe certain Rules of the Road.**

BE IT INACTED by the Provincial Council of Transvaal as follows:—

**Definitions.**

\*1. In this Ordinance unless some other meaning is clearly intended—

“Administrator” means the officer appointed under sub-section (1) of section *sixty-eight* of the South Africa Act, 1909, and any amendment thereof acting on the authority of the Executive Committee of the Province;

“by-laws” means by-laws made by a local authority for the municipality under and in accordance with the provisions of Part II of Chapter VII of the Local Government Ordinance 1926 or any amendment thereof;

“Controlled intersection” means an intersection at which the movement of traffic is controlled—

(a) by a traffic-officer on point duty; or

(b) by a “Stop” sign or signs; or

(c) automatically by robots.

“driver” means any person who is in actual physical control of a vehicle;

“intersection” means the area embraced within the prolongation or connection of the lateral boundary lines of two or more public roads which join one another;

“local authority” means a city council, a town council, a village council or a health committee constituted under the Local Government Ordinance 1926 or any amendment thereof;

“motor vehicle” means a mechanically-propelled vehicle using public roads but does not include a steam, electrical or motor roller or fire engine or such other vehicle as the Administrator may from time to time, declare by proclamation in the *Provincial Gazette* shall not be a motor vehicle for the purposes of this Ordinance;

“municipality” means the area or district placed under the jurisdiction of a local authority;

“pedestrian” means any person afoot;

“public road” means—

(a) any road established, proclaimed or recognized as such under the provisions of any law and includes bridges over which such roads passes; and

(b) any road or thoroughfare, however created which, before or after the commencement of this Ordinance, has been in the undisturbed use of the public or which the public has had the right to use during a period of not less than three years and includes bridges over which such road passes; and

(c) any street or thoroughfare and any other place whatever open to the use of the public for purposes of traffic provided that in any prosecution under this Ordinance the road on which the offence is alleged to have occurred shall be presumed to be a public road unless and until the contrary is proved;

“roadway” means that portion of a public road between the regularly established kerb lines or that portion of a public road improved and intended to be used for vehicular traffic or used or reasonably usable for the time being for vehicular traffic in general;

“safety-zone” means the area or space within a public road set aside by the Administrator or by a local authority for the use of pedestrians or as a refuge for tram passengers and plainly marked or indicated by proper signs plainly visible at all times while set aside as a safety-zone;

“traffic-officer” means any member of the police force and/or any person charged by the Administrator or by a local authority with the duty of regulating and controlling traffic;

“vehicle” means any contrivance running on wheels which is mechanically propelled by its own power or which is drawn by one or more animals

\* As amended by section one of Ordinance No. 6 of 1940.

and includes a bicycle, a tricycle, jinricksha, handcart or other such contrivance which is propelled or drawn by human power or any animal whether ridden, led or driven.

**General Rule: Drive on left hand side of Road.**

2. (1) Subject to the limitations set forth in section *four* and to the exceptions set forth in sub-section (2) hereof and save as provided in section *ninety* of the Roads Ordinance, 1933, or any amendment thereof the driver of a vehicle using a public road of sufficient width shall keep such vehicle on the left-half of the roadway; slow moving vehicles shall keep as closely to the left hand edge or kerb of such road as possible.

(2) The provisions of sub-section (1) of this section shall not apply to—

- (a) one-way streets;
- (b) any public road whenever the left-half of the roadway thereof is out of repair and for such reason is unsafe or not reasonably usable;
- (c) the driver of any vehicle when overtaking or passing another vehicle or when placing his vehicle in position to make a right turn;
- (d) public roads in areas outside municipalities with an unobstructed view no approaching or overtaking traffic being present.

**Vehicles Meeting.**

3. Drivers of vehicles proceeding in opposite directions shall pass each other to the left, each keeping to his left side and each giving to the other at least one-half of the main travelled portion of the roadway as nearly as possible.

**Overtaking and Passing.**

\*4. (1) The driver of any vehicle overtaking on a public road another vehicle proceeding in the same direction shall pass at a safe distance at the right thereof, and shall not again drive to the left side of the road until safely clear of such overtaken vehicle.

(2) The driver of a motor vehicle shall, when overtaking another vehicle upon a public road, signal by use of the warning instrument his desire to pass the vehicle being overtaken and thereupon it shall be the duty of the driver of such other vehicle not to deviate to the right unless with due warning but to allow the overtaking vehicle a reasonable space in which to pass. After the signal as aforesaid has been given, the driver of the vehicle being overtaken shall not increase his speed until the overtaking vehicle has had a reasonable opportunity to pass and draw clear of the overtaken vehicle.

For the purpose of this sub-section the expression "warning instrument" means hooter, horn or other warning device attached to a motor vehicle.

(3) The driver of a vehicle shall not drive such vehicle to the right of the centre line of a roadway when overtaking and passing another vehicle proceeding in the same direction unless the road is clearly visible and is within a distance of five hundred feet sufficiently free of oncoming traffic to permit such overtaking and passing to be completed without endangering the safety of any pedestrian or impeding the safe operation of any vehicle approaching from the opposite direction or any vehicle overtaken, nor shall the driver of a vehicle in any event drive to the right side of the centre line of a roadway when approaching the crest of a grade or upon a curve where the driver's view along the roadway is obstructed within a distance of five hundred feet.

(4) The driver of a vehicle shall not pass over a railway crossing until he has satisfied himself that a train, engine or any other vehicle is not approaching along the railway line and that there is ample time for him to pass over in safety.

The driver of a vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard to the speed of such latter vehicle and the traffic upon and condition of the roadway.

(6) No driver of a motor vehicle shall except at a controlled intersection overtake or attempt to pass any vehicle proceeding in the same direction at an intersection or a bend.

(7) The driver of a motor vehicle when passing another motor vehicle proceeding in the same direction on a two-way roadway shall exercise such caution and vigilance as to afford himself time and opportunity to avoid pedestrians crossing either way on that section of the road.

**Turning at Intersections.**

5. (1) Save as is provided in sub-section (2) of this section the driver of a vehicle intending to turn to the left at an intersection shall approach such intersection on the left-hand side of the road, and in turning shall keep as closely as practicable to the left-hand kerb or edge of the road, and when intending to turn to the right shall approach such intersections keeping near to the centre line of the road and in turning shall pass beyond the

\* As amended by section *two* of Ordinance No. 6 of 1940.



centre of the intersection, passing as closely as practicable to the left thereof before turning such vehicle to the right.

For the purposes of this section the centre of the intersection means the meeting point of the medial lines of the public roads intersecting one another.

(2) The Administrator or any local authority, acting within its area of jurisdiction, may indicate in a clear manner, by white lines, buttons, markers or other direction signs at an intersection or along a road the course to be followed by vehicles. Any driver of a vehicle who shall fail to travel in the manner indicated shall be guilty of an offence against this Ordinance.

#### **Drivers' Signals.**

\*6. (1) The Administrator may from time to time by Proclamation in the *Provincial Gazette of the Province of Transvaal* prescribe the signals to be given by drivers of vehicles on public roads.

(2) Every person who fails to give the appropriate signal prescribed in terms of sub-section (1) of this section shall be guilty of an offence against this Ordinance and liable, on conviction, to a fine not exceeding five pounds, and in default of payment to imprisonment with or without hard labour for a period not exceeding fourteen days.

#### **Limitations on Backing.**

7. No driver shall back his vehicle unless such movement can be made in safety.

#### **Entering a Public Road from another Road.**

8. No driver of a vehicle shall enter into any public road from any other road until he has satisfied himself that he can do so with safety.

#### **Passing Animals.**

9. Every driver of a motor vehicle shall on approaching or overtaking and passing any animal or animals being driven along a public road, and not being a ridden or driven animal guided by reins, drive slowly until past such animal or animals, and if requested so to do by the person apparently in charge of the same, shall stop until way has been made for the passage of the motor-vehicle or the animals have been driven past it; provided that the driver having stopped at the request of such person may, if the latter does not use reasonable diligence in making way for the motor vehicle, or in driving the animal or animals past it as the case may be, restart the motor vehicle and proceed with all reasonable care past such animal or animals.

#### **Driving through Safety Zone Prohibited.**

10. The driver of a vehicle shall not drive through or over a safety zone set apart as a refuge for tram passengers while any person is occupying the same.

#### **Parking on Public Roads Outside Municipalities.**

11. No person shall outside a municipality—

(1) park or leave standing any vehicle whether attended or unattended upon the paved or improved or main travelled portion of a public road (hereinafter in this sub-section referred to as the improved portion) when it is practicable to park or leave such vehicle standing in such a way as not to obstruct traffic or be a possible danger.

The provisions of this sub-section shall not apply to the driver of any vehicle which is disabled on the improved portion in such manner and to such extent that it is impossible to avoid stopping and temporarily leaving such vehicle in such position;

(2) place any vehicle upon a public road with the object of displaying the same for sale or exchange. A vehicle shall be deemed to be displayed in contravention of this sub-section when found standing at rest upon a public road and it is indicated by a sign or notice that the vehicle is for sale or exchange.

#### **Regulations and By-laws.**

12. The Administrator may from time to time make regulations for areas outside municipalities and a local authority may from time to time make by-laws for the municipality for the regulation, safety and control of all kinds of traffic (including pedestrian traffic) on public roads including the restriction of the use of any such roads or parts thereof to specified vehicles generally or at fixed times or seasons and for providing that any specified public road shall be limited in use to traffic moving in any one specified direction (one-way traffic) and generally for the better carrying out of the objects of this Ordinance provided that such regulations and by-laws are not inconsistent with the provisions of this Ordinance or of the Motor Vehicle Ordinance, 1931, or any amendment thereof. Such regulations or by-laws may prescribe fines or other penalties for any breach thereof but no fine shall exceed fifty pounds.

\* As substituted by section three of Ordinance No. 6 of 1940.

**Offences and Penalties.**

13. (1) Every person who does or omits, or causes or knowingly permits or suffers to be done or omitted any act, matter, or thing contrary to the provisions of this Ordinance, or fails to comply with any requirement hereby imposed on such person, shall be deemed to have committed an offence against this Ordinance; and if such act, or omission, or failure occurs on more than one day such person shall be deemed to have committed a separate offence against this Ordinance on each day on which such act or omission or failure has occurred.

(2) Every person who commits an offence against this Ordinance shall be liable for every such offence to a fine not exceeding fifty pounds or in default of payment of any such fine to imprisonment with or without hard labour for a period not exceeding six months.

**Application of Fines.**

14. All fines recovered for offences against this Ordinance or any bail forfeited for the failure of any person charged with such offence to appear to answer such charge shall be paid into the Provincial Revenue Fund if the offence was committed outside any municipality.

**Binding of the Crown.**

15. This Ordinance shall bind the Crown

\*16. This Ordinance shall be read as one with the Motor Vehicle Ordinance, 1931.

**Short Title.**

17. This Ordinance may be cited for all purposes as the Road Traffic Ordinance, 1934, and shall come into operation on such date as may be fixed by the Administrator by Proclamation in the *Provincial Gazette*.

**No. 12 of 1934.—Townships and Townplanning Amendment.—Principal Ordinance, No. 11 of 1931.**

*Section 1.—Amends section 1 of the Principal Ordinance.*

*Sections 2, 3, 4, 5, 6, 7 and 8 add certain new provisions to the Principal Ordinance, these are now embodied therein as following on section 7 of Ordinance No. 20 of 1941 printed immediately after section 29 in the Principal Ordinance.*

*Section 9.—Short title.*

**No. 13 of 1934.—Education Act Amendment.**

**No. 14 of 1934.—Local Government Further Amendment.—Repealed by the Local Government Ordinance, 1939.**

**No. 1 of 1935.—Appropriation (Part 1935-1936).**

**No. 2 of 1935.—Additional Appropriation (1934-1935).**

**No. 3 of 1935.—Unauthorized Expenditure (1932-1933).**

**No. 4 of 1935.—Local Government Amendment.—Repealed by the Local Government Ordinance, 1939.**

**No. 5 of 1935.—Horse Racing and Betting Amendment.**

*Section 1.—Repeals the Horse-Racing and Betting Amendment Ordinance No. 16 of 1933.*

*Section 2.—Short title.*

**No. 6 of 1935.—Main Reef Road Amendment.—Repealed by Ordinance No. 12 of 1938.**

**No. 7 of 1935.]**

[Assented to 15th July, 1935.

(Date of operation, 1st January, 1936.)

(English copy signed by the Governor-General.)

**AN ORDINANCE**

**To Provide for a Reduction in respect of the Fees for certain Licences under the Liquor Act, 1928.**

BE IT ENACTED by the Provincial Council of Transvaal as follows: —  
**Reduction of Fees for certain Liquor Licences where hours of sale have been Extended.**

1. In any case where a licencing board authorises an extension of the hours of sale in a health or pleasure resort under the terms of the second proviso to sub-section (7) of section *seventy five* of the Liquor Act (No. 30 of 1928) as amended by Act No. 41 of 1934, the increase in the amount of the licence by reason of such extension as prescribed and calculated in sub-section (7) of section *seventy-five* of the Act shall be one-twentieth instead of one-tenth; provided that where the amount of the annual licence is reduced under the provisions of sub-section (3) of section *twelve* of the Act, the increase of one-twentieth shall be calculated on the full annual fee prescribed in the Third Schedule to the Act.

\* Added by section *four* of Ordinance No. 6 of 1940.

**Date of Operation.**

2. The provisions of this Ordinance shall have effect from the first day of January, One thousand Nine hundred and Thirty-six.

**Short Title.**

3. This Ordinance shall be known as the Liquor Licences Ordinance, 1935.

**No. 8 of 1935.—Appropriation (1935-36).**

**No. 9 of 1935.—Local Government Further Amendment.—Repealed by the Local Government Ordinance, 1939.**

**No. 10 of 1935.]**

[Assented to 20th August, 1935.

(Date of operation, 18th September 1935.)

(Afrikaans copy signed by the Governor-General.)

**AN ORDINANCE**

**To make Provision for certain Adjustments in regard to Teachers' Pensions.**

BE IT INACTED by the Provincial Council of Transvaal as follows:—

**Calculation of Pension not to be affected by General Reduction in Salaries.**

1. Notwithstanding the general reduction in the salary of teachers effected by the Administrator for the period 1st January, 1932, to 31st December, 1934, the pension, gratuity or other retiring benefits payable to any teacher shall be calculated and paid as if such reduction in salary had not taken place.

**Contributions due by Teachers to Pension Funds not to be affected by General Reduction in Salaries.**

2. The difference between the amount contributed or contributable by any teacher to the Transvaal Teachers' Pension Fund or Teachers' Provident Fund during the period 1st January 1932, to 31st December, 1934, and the amount he would have had to contribute to such funds if his salary had not been reduced during such period in terms of the general reduction mentioned in section one hereof shall be payable by such teacher into such funds.

**Amount Payable to Funds to form charge against Teacher's Salary, etc.**

3. The amount payable by any teacher in terms of section two of this Ordinance shall form a charge against his salary or, where such teacher is no longer in the service, against any pension, gratuity or other retiring benefit due to him or his dependants and shall be deducted from his salary or from such pension, gratuity or other retiring benefit as the case may be and paid into the fund concerned in such manner and at such times as the Administrator may in each case decide.

**Short Title.**

4. This Ordinance shall be known as the Teachers' Pension Contribution Adjustment Ordinance, 1935.

**No. 11 of 1935.]**

[Assented to 14th October, 1935.

(Date of operation, 15th November 1935.)

(Afrikaans copy signed by the Officer Adminstrating the Government.)

**AN ORDINANCE**

**To Consolidate and Amend the Law relating to the Preservation of Game and of certain other Wild Animals.**

BE IT INACTED by the Provincial Council of Transvaal as follows:—

**Definitions.**

1. In this Ordinance and any regulations made thereunder, unless inconsistent with the context—

“Administrator” means the officer appointed under section sixty-eight of the South Africa Act, 1909, acting on the authority of the Executive Committee of the Province;

“exotic game” means any exotic bird or other animal which is ordinarily classed as game in any country where it has its natural habitat or where it is to be found in a wild state in considerable numbers; provided that whenever the question arises in connection with the application of any provision of this Ordinance whether any species of exotic bird or other animal is or is not exotic game, a certificate purporting to have been issued by or on the authority of the Administrator, declaring that such bird or other animal is exotic game, shall be conclusive proof that such bird or other animal is in fact exotic game;

“game” means any bird or animal (whether alive or dead) included in the First Schedule to this Ordinance;

“biltong” means game meat which has been dried for purposes of preservation;

“Gazette” means the *Provincial Gazette* of the Province of Transvaal;

“hunt” means kill, shoot at, capture or attempt to capture, follow or search for or lie in wait for with intent to kill, shoot or capture, or wilfully disturb;

“open game” means any species of game or either sex of any species of game which has been proclaimed to be open game under paragraph (c) of section *two*;

“owner” in relation to any land means the person registered as the owner of such land in the deed registry or the *bona fide* purchaser of such land before registration of deed of transfer in his name, or the lawful heir of the owner at his death, or if such land is subject to a usufruct, the usufructuary thereof; or if such land belongs to the State and is occupied by any person who has purchased it from the State, but to whom it has not yet been transferred, then such occupier;

“protected bird or other animal” means any bird or other animal included in the Second Schedule to this Ordinance;

“protected game” means any game which is not open game;

\*“sell” means sell, barter, offer or expose for sale or give or offer as any valuable consideration;

“shooting rights” in relation to any person and to any land means the exclusive right of such person, either alone or jointly with any other person, to hunt on such land any open game or any game for the hunting whereof a permit has been issued under this Ordinance.

#### Powers of Administrator.

2. The Administrator may from time to time by proclamation in the *Gazette*—

(a) include in, or delete from, the First Schedule to this Ordinance, the name of any species of wild bird or other wild animal (other than a protected bird or other animal);

(b) include in the Second Schedule to this Ordinance the name of any species of wild bird or other wild animal (other than game) which in the Administrator's opinion should be protected on account of its general utility or for any other reason; or delete any such name therefrom; provided that in including the name of any species of bird or other animal in the said Schedule the Administrator may limit the protection afforded thereby to a defined area or to a specified period or to a specified period in every year;

(c) declare any species of game or either sex of any species of game to be open game in any area and during any period in any year specified in such proclamation;

(d) declare any area defined in such proclamation to be a game reserve during any period specified in such proclamation or until it is deproclaimed.

#### Power of Administrator to make Regulations.

3. (1) The Administrator may from time to time make regulation, not inconsistent with the provisions of this Ordinance—

(a) prohibiting or regulating the coursing of game with dogs or the driving of game by means of fire or beaters;

(b) prohibiting or regulating the taking, disturbance, destruction, purchase or sale of the eggs of any bird which is game;

(c) prohibiting or regulating the export from the Province of game or the flesh, horns, tusks, skins or hides or any other part of the carcass of game;

(d) declaring any noxious wild animals to be vermin and regulating the destruction of vermin and the payment of rewards for such destruction;

†(e) providing for the administration of all game reserves, or of any particular game reserve, established under paragraph (d) of section *two*; for the preservation of animals and plants therein; for the prohibition or restriction of entry into or passage through such reserves or any such reserve or any part thereof, for the control of persons or animals which are therein either permanently or temporarily, and for the payment of fees for the right to enter such reserves or any such reserve or any part thereof, or for the right to perform any specified act therein or for the use of any article or facility made available therein;

(f) fixing the fees to be paid for any licence or permit issued under this Ordinance;

(g) prescribing the conditions on which licences and permits referred to in this Ordinance, shall be issued, the circumstances in which such permits may be issued, the requirements to be complied with by any holder of any such licence or permit, and the forms for such licences and permits;

\* As amended by section *one* of Ordinance No. 11 of 1941.

† As amended by section *two* of Ordinance No. 11 of 1941.

(h) regulating the importation into this Province of game or the flesh, horns, tusks, or hides or any other part of the carcass of game.

(2) Any person contravening or failing to comply with any such regulation shall be guilty of an offence and liable on conviction to a fine not exceeding fifty pounds.

(3) Any regulation made under any law repealed by section *fourteen*, the provisions of which could be embodied in a regulation made under sub-section (1) shall be deemed to have been made under that sub-section.

#### Unlawful Hunting.

4. (1) Subject to the provisions of sections *five*, *six* and *nine*, no person shall hunt any game on any land unless—

(a) such game is open game or he has been granted a permit under sub-section (2) of section *eight* to hunt such game; and

(b) he holds the shooting rights over such land or has been granted permission by the holder of such rights to hunt such game on such land.

(2) Any person contravening sub-section (1) shall be guilty of an offence and liable on conviction to a fine—

(a) not exceeding one hundred pounds if the offence was committed by the hunting of protected game on land over which the offender did not hold the shooting rights at the time of the commission of the offence; or

(b) not exceeding fifty pounds if the offence was committed in any other manner.

(3) No person shall hunt any exotic game on any land unless he is the owner of such land and such exotic game was bred thereon or unless he is or was at any time the owner of such exotic game or of its parent stock and has not alienated his rights thereto, or unless he has been granted permission by either such owner to hunt such exotic game.

(4) Any person contravening sub-section (3) shall be guilty of an offence and liable on conviction to a fine not exceeding one hundred pounds.

(5) No permission (other than permission granted by a person to his spouse or his child or grandchild or to the spouse of his child or grandchild) shall be valid for the purposes of sub-section (1) or (3)—

(a) unless it was granted in writing; or

(b) unless it is exercised in the presence of the person who granted it.

(6) Subject to the provisions of section *nine* no person shall hunt any open game on land whereof he or his spouse or his parent is not the owner, unless he holds a current game licence issued under sub-section (1) of section *eight* in addition to the shooting rights over such land or the permission to hunt such game, granted by the owner of such land or by the person who holds the shooting rights thereover.

(7) Any person contravening sub-section (6) shall be guilty of an offence and liable on conviction to a fine not exceeding twenty-five pounds.

(8) Subject to the provisions of section *five*, *six*, *nine* and *eleven*, no person shall hunt any game during the period between half an hour after sunset on any day and half an hour before sunrise on the following day.

(9) A person contravening sub-section (8) shall be guilty of an offence and liable on conviction to a fine not exceeding fifty pounds and if such person used a "spot-light" whether on a motor vehicle or not the fine to be one hundred pounds or three months' imprisonment with or without a fine.

#### Snaring, etc., of Game Prohibited.

\*5. (1) No person shall capture any game by means of any snare, pitfall, gin, trap, net or other contrivance except under and in accordance with the written permission of the Administrator and on such conditions as the Administrator may think fit to impose.

(2) Any person contravening any provision of sub-section (1) or contravening or failing to comply with any condition of such permission shall be guilty of an offence and liable on conviction to a fine not exceeding one hundred pounds.

(3) No person shall bring any snare, gin, trap, net, bird lime or other contrivance intended or suitable for the capture of any wild animal on to any land whereon any wild animal is or is likely to be present, unless he is the owner or occupier of that land, or unless the said owner or occupier has permitted the person concerned to bring the article in question on to the said land, and the said owner or occupier may destroy any such article as aforesaid which was brought on to the said land without his permission.

(4) Any person contravening any provision of sub-section (3) shall be guilty of an offence and liable on conviction to a fine not exceeding fifty pounds, and the court convicting the offender shall cause to be destroyed any such article as aforesaid by means whereof that offence was committed.

\* Sub-sections (3) and (4) added by section *three* of Ordinance No. 11 of 1941.

**Prohibition of Hunting protected Birds and other animals or Hunting in Game Reserves.**

6. (1) No person shall hunt any protected bird or other animal, or hunt any bird or other animal, in any area declared to be a game reserve under paragraph (d) of section *two* except under and in accordance with the written permission of the Administrator and on such conditions as the Administrator may think fit to impose.

(2) Any person contravening any provision of sub-section (1) or contravening or failing to comply with any condition of such permissions shall be guilty of an offence and liable on conviction to a fine not exceeding one hundred pounds.

**Sale of Game.**

\*7. (1) No person shall sell any game or the flesh of any game (whether fresh or dried), or any game hide or skin; provided that the owner of any land who also holds the shooting rights over such land may sell any guinea fowl, or any springbuck, blesbuck, black wildebeest, zebra, or, with a written permission of the Administrator, any impala specified in that permission which was hunted on such land (or the fresh flesh of any of the said species of game); and provided, further, that any holder of a game sale licence may sell any of the said species of game or the fresh flesh thereof, in the shop or market specified in his licence.

(2) Any person contravening sub-section (1) shall be guilty of an offence and liable on conviction to a fine not exceeding twenty-five pounds.

**Licences and Permits.**

8. Any receiver of revenue shall, subject to the provisions of this Ordinance and the regulations promulgated thereunder, issue to any person applying therefor on payment of the fee prescribed under paragraph (f) of section *three*—

(a) a game licence, which shall be available for the period specified therein;

(b) a game sale licence which shall entitle the holder thereof to sell in any shop belonging to him and mentioned in such licence, or in a market mentioned in such licence and during the period of one year specified therein the game and the fresh flesh of the game mentioned in section *seven*.

(2) The Administrator or any person authorised by him may at any time issue a permit authorising the holder of such permit to hunt in any manner prescribed therein, the species, sex and number of game specified in such permit, on the land likewise specified, but subject to the provisions of this Ordinance and to such conditions and requirements as may be specified in such permit.

(3) Any person contravening or failing to comply with any condition or requirement specified in any such permit shall be guilty of an offence and liable, on conviction, to a fine not exceeding fifty pounds.

**Destruction of Game which does damage to Cultivated Land.**

†9. Notwithstanding anything in this Ordinance contained, it shall be lawful—

(a) for the owner of land who also holds the shooting rights over such land, and, with the permission of such owner, for his spouse or his child and for the spouse of his child to hunt on such land at any time without a game licence or permit under this Ordinance, any black wildebeest, blesbuck or springbuck, which was bred on such land or which or the parent stock whereof belongs or at any time belonged to such owner and the rights whereof were not alienated by him, and any bird which is game, blue wildebeest, zebra and any hare; and

(b) for the owner, occupier or cultivator of land to destroy game thereon which is causing damage to trees, plants or standing crops.

**Trespassing, Conveyance of Fire-arms, Destruction of Dogs.**

‡10. (1) If any person who is in possession of a firearm or of an airgun wilfully trespasses upon any land on which any game is or is likely to be present, he shall be guilty of an offence and liable on conviction to a fine not exceeding fifty pounds; provided that for the purposes of this sub-section any trespass shall be deemed to have been wilful unless it is proved to have been unintentional.

(2) If any person conveys in any motor vehicle any firearm (other than in a securely fastened cover or case) along any road traversing land in any locality where game is or is likely to be present and such person is not the owner or occupier of such land or has not the right to hunt game or any other animal on such land, he shall be guilty of an offence and shall be liable, on conviction, to a fine not exceeding fifty pounds.

(3) If any person, while trespassing upon any land is in pursuit or search of game while trespassing upon any land on which any game is or is likely to be present is in possession of any firearm, airgun or contrivance for the

\* As amended by section *six* of Ordinance No. 11 of 1941.

† As amended by section *one* of Ordinance No. 10 of 1936 and section *five* of Ordinance No. 11 of 1941.

‡ As amended by section *two* of Ordinance No. 10 of 1936.

capture of game, or is accompanied by any dog, any police officer or the owner or occupier of such land, or the holder of the shooting rights over such land, or if such land be Crown land, any magistrate or justice of the peace or any officer in the service of the State who is upon such land in the performance of any official duty may demand from such a person a statement of his full name and place of abode and may direct him forthwith to quit such land, and if such person fails forthwith to comply with such demand or direction or states a false or incomplete name or address he shall be guilty of an offence and liable, on conviction, to a fine not exceeding fifty pounds.

(4) The owner or occupier of any land whereon there is any game, or the holder of the shooting rights over any such land may destroy any dog not used in lawful hunting which is pursuing or in search of any game on such land.

#### **Search for Concealed Game.**

\*10bis. (1) The owner or occupier of any land or his European agent may, without a search warrant, search any hut, tent, camping place, vehicle or receptacle whatever on that land, and any European police officer may, without a search warrant, search any hut, tent, camping place, vehicle or receptacle belonging to or in the possession, occupation or custody of a person other than the owner or occupier of the land on which the search is effected, if in either case the person effecting the search has reason to suspect that the place or article in question contains any game or any part of the carcass of game.

2. Any person who obstructs any person mentioned in sub-section (1) in effecting any search under that sub-section, shall be guilty of an offence and liable on conviction to a fine not exceeding fifty pounds.

#### **Evidence.**

11. (1) Whenever any person is or has been in possession of or handles or has handled any game or of the flesh, hide, skin or head of any game or of any part of any hide, skin or head of any game, and there exists at any time a reasonable suspicion that such game was hunted unlawfully, he shall be guilty of an offence and liable, on conviction, to the same punishment to which he would be liable if he had hunted such game without a licence or permit under this Ordinance on land whereon he had no right to hunt any game, unless he proves—

(a) that such game was lawfully hunted; or

(b) that he did not kill or capture such game and took no part in the killing or capture of such game.

(2) Any person charged with doing any act which is an offence under this Ordinance if done without a licence, permit or permission, shall be deemed to have done such act without such licence, permit or permission unless it is proved that he was in possession of such licence, permit or permission when he performed the act in question.

(3) The burden of proving any fact which would be a defence to a charge of contravening this Ordinance or any Regulation made thereunder shall lie upon the person charged.

(4) Whenever, in any prosecution for any contravention of this Ordinance or any regulation thereunder—

(a) the question whether any flesh devoid of fat (whether dried or fresh) is or was the flesh of game, is relevant to the issue, such flesh shall be deemed to be or to have been the flesh of game, unless the contrary is proved;

(b) the question whether any hide which has been rendered unidentifiable as the hide of any particular species of animal, is or was the hide of any game is relevant to the issue such hide shall be deemed to be or to have been the hide of game unless the contrary is proved.

(5) Whenever in any proceedings against any person upon a charge alleging that he committed upon any particular piece of land an offence under this Ordinance or the regulations made thereunder, it is proved that any act, constituting or forming an element of such offence, was committed in or near the locality wherein such piece of land is situate, such act shall be deemed to have been committed upon such piece of land unless it is proved—

(a) that it was committed on another piece of land; and

(b) that the person committing such act had the right to commit it on such other piece of land.

(6) Whenever any game or any flesh, hide, skin or head of any game or any part of any hide, skin or head of any game is upon any vehicle or at any camping place, every person who is upon or in any way associated with such vehicle or who is at or in any way associated with such camping place shall be deemed to be in possession of such game, flesh, hide, skin, head or part for the purposes of sub-section (1).

\* Added by section seven of Ordinance No. 11 of 1941.

(7) Whenever the hunting of one or other sex or of any other particular class of any species of game is unlawful and the hunting of the other sex or of any other class of such game is lawful, any carcass of such game from which the distinguishing features of sex or of such particular class have been removed shall be deemed to be the carcass of game of the sex or of a class which it is unlawful to hunt, unless the contrary is proved.

#### Forfeiture of certain Articles as a result of Conviction.

12. Whenever any person is convicted of an offence under this Ordinance, any game or the flesh or any other portion of any game in connection wherewith the offence was committed shall be forfeited to the Crown and the court convicting such persons may cancel any licence or permit granted to him under this Ordinance.

(2) Whenever any person is convicted under this Ordinance of hunting game upon land whereof he is not the owner or occupier and in respect whereof he is not the holder of the shooting rights and whereon he has not been permitted by such holder to hunt any game, any weapon used in such hunting shall be forfeited to the Crown, unless it is proved that it does not belong to the person so convicted and that its owner was unable to prevent its use by the person so convicted.

#### Application of Penalties.

13. Every fine imposed for a contravention of this Ordinance or of any regulation made thereunder shall be paid into the Provincial Revenue Fund.

#### Repeal of Laws.

14. The Game Preservation Ordinance, 1905, the Game Preservation Amendment Act, 1907, the Ostriches Exportation Prohibition Act, 1907, the Game Preservation Further Amendment Act, 1909, the Game Preservation Amendment Ordinance, 1917 and the Game Preservation Amendment Ordinance, 1918, are hereby repealed.

#### Short Title.

15. This Ordinance shall be known as the Game Ordinance, 1935, and shall come into operation on such date as may be fixed by the Administrator by proclamation in the *Gazette*.

### FIRST SCHEDULE.

#### ANIMALS AND BIRDS CLASSED AS GAME.

#### PART I.

#### QUADRUPEDS.

<i>English Common Nomenclature.</i>	<i>Afrikaans Common Nomenclature.</i>	<i>Scientific Nomenclature.</i>
Antelope, Inyala.....	Inyala.....	<i>Tragelaphus angasi.</i>
Antelope, roan.....	Bastergemsbok of bastereland....	<i>Hippotragus equinus.</i>
Antelope, sable.....	Swartwitpens.....	<i>Hippotragus niger.</i>
Buffalo.....	Buffel.....	<i>Buffelus caffer.</i>
Eland.....	Eland.....	<i>Taurotragus oryx.</i>
Elephant.....	Olifant.....	<i>Elephas africanus.</i>
Gemsbok.....	Gemsbok.....	<i>Oryx gazella.</i>
Giraffe.....	Kameel (Giraf).....	<i>Giraffa capensis.</i>
Hartebeest, red.....	Hartbees.....	<i>Bubalus caama.</i>
Hartebeest, Lichtenstein.....	Mofhartbees.....	<i>Bubalus lichtensteini.</i>
Hippo.....	Seekoei.....	<i>Hippopotamus amphibius.</i>
Kudu.....	Koedoe.....	<i>Strepsiceros kudu.</i>
Impala or rooibuck.....	Rooibok of impala.....	<i>Aepyceros melampus.</i>
Reedbuck.....	Rietbok.....	<i>Cervicapra arundinum.</i>
Rhinoceros.....	Renoster.....	<i>Rhinoceros bicornis.</i>
Sassaby.....	Basterhartbees.....	<i>Damaliscus lunatus.</i>
Waterbuck.....	Waterbok.....	<i>Cobus ellipsiprymnus.</i>
Wildebeest, blue.....	Blouwildebees.....	<i>Connochoetus taurinus.</i>
Wildebeest, black.....	Swartwildebees.....	<i>Connochoetus gnu.</i>
Zebra.....	Kwagga of zebra.....	<i>Equus burchelli.</i>
Blesbuck.....	Blesbok.....	<i>Damaliscus albifrons.</i>
Bushbuck.....	Bosbok.....	<i>Tragelaphus sylvaticus.</i>
Duiker.....	Duiker.....	<i>Cephalophus grimmi.</i>
Duiker, red.....	Roodduiker.....	<i>Cephalophus natalensis.</i>
Klipspringer.....	Klipspringer.....	<i>Oreotragus safsator.</i>
Oribi.....	Oorbietjie.....	<i>Ourebia scoparia.</i>
Rhebuck, rooi.....	Rooireebok.....	<i>Cervicapra fulvorumfula.</i>
Rhebuck, vaal.....	Vaalreebok.....	<i>Pelea capreola.</i>
Sharpe's steenbuck.....	Grysbok.....	<i>Rhaphicerus sharpei.</i>
Springbuck.....	Springbok.....	<i>Antidorcas euchoe.</i>
Steenbuck.....	Steenbok.....	<i>Rhaphicerus campestris.</i>
Warthog.....	Vlakovark.....	<i>Phacochoerus aethiopicus.</i>
Hare, Cape.....	Vlakte-haas.....	<i>Lepus capensis.</i>
Hare, red.....	Kilphaas.....	<i>Lepus crassicaudatus.</i>
Hare, rock.....	Kolhaas.....	<i>Lepus saxatilis.</i>



## PART II.

## BIRDS.

<i>English Common Nomenclature.</i>	<i>Afrikaans Common Nomenclature.</i>	<i>Scientific Nomenclature.</i>
Guinea-fowl, common.....	Tarentaal.....	<i>Numida coronata.</i>
Guinea-fowl, crested.....	Kuifkoptarentaal.....	<i>Guttera edouardi.</i>
Pheasant, red-necked.....	Bosveld-fisant.....	<i>Pternistes swainsoni.</i>
Pheasant, Cape or noisy francolin	Kaapse patrys.....	<i>Francolinus capensis.</i>
Francolin, coqui or shrimpy.....	Swempie.....	<i>Francolinus coqui.</i>
Francolin, crowned.....	Kroonpatrys.....	<i>Francolinus sephoena.</i>
Francolin, Orange River.....	Vrijstaat-patrys.....	<i>Francolinus gariepensis.</i>
Francolin, Shelley's.....	Shelleypatrys.....	<i>Francolinus shelleyi.</i>
Francolin, Natal.....	Natal-patrys.....	<i>Francolinus natalensis.</i>
Cape redwing.....	Rooivlerkpatrys.....	<i>Francolinus levaillantii.</i>
Cape partridge or grey-wing.....	Bergpatrys.....	<i>Francolinus afer.</i>
Namaqua partridge or sand- grouse.....	Namakwa-patrys.....	<i>Pteroclorus namaquus.</i>
Sandgrouse, potted.....	Geel-sandpatrys.....	<i>Pterocles variegatus.</i>
Sandgrouse, yellow-throated.....	Nagpatrys.....	<i>Pterocles gutturalis.</i>
Sandgrouse, double-banded.....	Dubbel gestreepte sandpatrys.....	<i>Pterocles bicinctus.</i>
Shoveller, Cape.....	Slop.....	<i>Spatula capensis.</i>
Pochard, South African.....	Bruineend.....	<i>Nyroca capensis.</i>
Sheldrake, South African.....	Bergeend.....	<i>Casarca cana.</i>
Duck, white-masked.....	Nonnetjie-eend.....	<i>Dendrocygna bidaata.</i>
Duck-knob-billed.....	Knobbeleend.....	<i>Sarcicormis melanomotis.</i>
Duck, white-backed.....	Witrugeend.....	<i>Thalassornis leucomotis.</i>
Duck, Maccua.....	Makoueend.....	<i>Erimaturus maccua.</i>
Duck, black.....	Swarteend.....	<i>Anas sparsa.</i>
Teal, red-billed.....	Rooibekeend.....	<i>Anas erythrorhyncha.</i>
Teal, yellow-billed.....	Geelbek.....	<i>Anas undulata.</i>
Teal, Hottentot.....	Gevlekte eend.....	<i>Anas punctata.</i>
Teal, Cape.....	Teeleendjie, Kaapse smee.....	<i>Anas capensis.</i>
Goose, spur-winged.....	Wilde-makou.....	<i>Plectropterus gambensis.</i>
Goose, Egyptian.....	Wildegans, Nijlgans, berggans.....	<i>Chenalopez aegyptiacus.</i>
Goose, African dwarf.....	Dwerggans.....	<i>Nettopus auritus.</i>
Ostrich.....	Volstruis.....	<i>Struthio australis.</i>

## SECOND SCHEDULE.

## PROTECTED BIRDS AND OTHER ANIMALS.

## BIRDS.

<i>English Common Nomenclature.</i>	<i>Afrikaans Common Nomenclature.</i>	<i>Scientific Nomenclature.</i>
All Storks.....	Alle Ooievare.....	<i>Ciconiidae.</i>
White Stork.....	Comprising the following species:— Witooievaar of Groot Sprinkaan- voël.....	<i>Ciconia ciconia.</i>
Black Stork.....	Swartooievaar of Groot Sprinkaan- voël.....	<i>Melanopelargus niger.</i>
White-bellied Stork.....	Klein Swartooievaar.....	<i>Sphenorhynchus abdimi.</i>
Woolly-necked Stork.....	Wolnek-ooievaar.....	<i>Dissoura episcopus.</i>
Open-bill Stork.....	Oopbekooievaar.....	<i>Anastomus lamelligerus.</i>
Saddle-bill Stork.....	Saalbek-ooievaar.....	<i>Ephippiorhynchus senegalensis.</i>
Marahou.....	Marabo.....	<i>Leptoptilos crumeniferus.</i>
All Ibises.....	Alle Ibisse.....	<i>Plegadidae.</i>
Sacred Ibis.....	Comprising the following species:— Hellige Ibis.....	<i>Threskiornis ethiopia.</i>
Bald Ibis.....	Kaalkop-ibis of Wildekalkoen.....	<i>Geronticus calvus.</i>
Glossy Ibis.....	Glansibis.....	<i>Plegadis falcinellus.</i>
Hadadah Ibis.....	Hagedas.....	<i>Hagedashia hagedash.</i>
Flamingoes.....	Flamingo.....	<i>Phoenicopteridae.</i>
Greater Flamingo.....	Comprising the following species:— Groot Flamingo.....	<i>Phoenicopterus roseus.</i>
Lesser Flamingo.....	Klein Flamingo.....	<i>Phoeniconaias minor.</i>
The Spoonbill.....	Die Lepelaar.....	<i>Platalea alba.</i>
Buff-backed Egret.....	Bosluisvoël.....	<i>Babulcus ibis.</i>
Crowned Crane.....	Mahem.....	<i>Balaerica regulorum.</i>
Wattled Crane.....	Lelkraan.....	<i>Bucconas carunculatus.</i>
Hammerhead.....	Hamerkop.....	<i>Scopus umbretta.</i>
All Dabchicks or Grebes.....	Alle Duikertjies.....	<i>Podicipidae.</i>
Dabchick.....	Comprising the following species:— Klein Duikertjie.....	<i>Poliiocephalus capensis.</i>
Eared Grebe.....	Geeloorduikertjie.....	<i>Proctopus nigricollis.</i>
Crested Grebe.....	Gekulfte Duikertjie.....	<i>Poliiceps infuscatus.</i>
All Bustards.....	Alle Korhane en Poue.....	<i>Otidæ.</i>
Giant Bustard.....	Comprising the following species:— Gompou.....	<i>Choriotis kori.</i>
Stanley's Bustard.....	Kaapse Pou.....	<i>Neotis caffa.</i>
Ludwig's Bustard.....	Klein Pou.....	<i>Neotis ludwigi.</i>
Natal Bustard.....	Nataise Vaalkorhaan.....	<i>Eupodotis barrowi.</i>
Red-crested or Bush Bustard.....	Boskorhaan.....	<i>Lophotis ruficrista.</i>
White-quilled Bustard.....	Witvlerkkorhaan.....	<i>Afrotis afroides.</i>
Long-legged Bustard.....	Groot Swartkorhaan.....	<i>Lissotis melanogaster.</i>
Both Dikkops.....	Beide soorte Dikkoppe.....	<i>Oedinenimidae.</i>
Cape Dikkop.....	Comprising the following species:— Kaapse Dikkop.....	<i>Burhinops capensis.</i>
Water Dikkop.....	Waterdikkop.....	<i>Oedinenemus vermiculatus.</i>
Pratincoles or Locust Birds.....	Klein Spiinkaanvoëls.....	<i>Glareolidae.</i>

<i>English Common Nomenclature.</i>	<i>Afrikaans Common Nomenclature.</i>	<i>Scientific Nomenclature.</i>
	Comprising the following species :—	
Red-legged Pratincole.....	Klein Rooipootsprinkaanvoël.....	<i>Galachrysis emini.</i>
Black-winged Pratincole.....	Klein Swartvierk-sprinkaanvoël.....	<i>Glareola nordmann.</i>
Common Pratincole.....	Gewone Klein Sprinkaanvoël.....	<i>Glareola pratincole.</i>
All Coursers.....	Alle Drawertjies.....	<i>Cursoriidae.</i>
	Comprising the following species :—	
Burchell's Courser.....	Gewone Drawertjie.....	<i>Cursorius rufus.</i>
Temminck's Courser.....	Klein Drawertjie.....	<i>Cursorius temmincki.</i>
Bronze-winged Courser.....	Glansvierk-drawertjie.....	<i>Phinoptilus chalcopterus.</i>
Seebohm's Courser.....	Seebohmdrawertjie.....	<i>Hemerodromus cinctus.</i>
Two-banded Courser.....	Gestreepte Drawertjie.....	<i>Smulcornis africanus.</i>
Curlews, Snipes, etc.....	Wulpe, Snippe, ens.....	<i>Scelopacidae.</i>
	Comprising the following species :—	
Curlew.....	Wulp.....	<i>Numenius arquatus.</i>
Whimbrel.....	Klein Wulp.....	<i>Phaeopus phaeopus.</i>
Marsh Sandpiper.....	Klein Snip.....	<i>Thornis stagnatilis.</i>
Green Sandpiper.....	Klein Groenbeensnip.....	<i>Tringa ochropus.</i>
Common Sandpiper.....	Gewone Klein Snip.....	<i>Actitis hypoleucos.</i>
Redshank.....	Rooipootsnip.....	<i>Totanus totanus.</i>
Greenshank.....	Groot Watersnip.....	<i>Gallinago pusilla.</i>
Wood Sandpiper.....	Gewone Watersnip.....	<i>Rhyacophyllis glareola.</i>
Reeve or Ruff.....	Geelbeenwatersnip.....	<i>Philomachus glareola.</i>
Little Stint.....	Klein Watersnip.....	<i>Phibia minuta.</i>
Curlew Sandpiper.....	Watersnip.....	<i>Erolia ferruginea.</i>
Double Snipe.....	Groot Regte Snip.....	<i>Capella media.</i>
African Snipe.....	Afrikaanse Regte Snip.....	<i>Capella nigripennis.</i>
Painted Snipe.....	Geverfde Snip.....	<i>Rostratula benghalensis.</i>
All Plovers.....	Alle Kiewietjies en Strandloper-tjies.....	<i>Charadriidae.</i>
	Comprising the following species :—	
White-fronted Sandplover.....	Witborssandloper-tjie.....	<i>Leucopoliis marginatus.</i>
Pink-breasted Sandplover.....	Pinkborssandloper-tjie.....	<i>Leucopoliis pecuaria.</i>
Three-banded Sandplover.....	Gestreepte Sandloper-tjie.....	<i>Afrozechus tricoloris.</i>
Crowned Lapwing.....	Gewone Kiewietjie.....	<i>Stephanibyx coronatus.</i>
Black-winged Lapwing.....	Swartvierk-kiewietjie.....	<i>Stephanibyx melanopterus.</i>
Lesser Black-winged Lapwing.....	Klein Kiewietjie.....	<i>Stephanibyx lugubris.</i>
Blacksmiths Plover.....	Bontkiewietjie.....	<i>Stephanibyx armatus.</i>
Wattled Plover.....	Lelkiewiet.....	<i>Afrizyx lateralis.</i>
Long-toes Lapwing.....	Langtoonkiewiet.....	<i>Hemipartra leucoptera.</i>
All Rollers or Blue Jays.....	Alle Troupande.....	<i>Coraciidae.</i>
	Comprising the following species :—	
European Roller.....	Europese Troupand.....	<i>Coracias garrulus.</i>
Mozambique Roller.....	Mozambiek-troupand.....	<i>Eurocoracias mosambicus.</i>
Lilac-breasted Roller.....	Mosilikatstroupand.....	<i>Coraciura caudata.</i>
Cinnamon Roller.....	Rooitroupand.....	<i>Cornopio afra.</i>
Both Red-winged Louries.....	Beide soorte Rooivlerk Loeries.....	<i>Turacus et Gallirex.</i>
	Comprising the following species :—	
Green-crested Lourie.....	Groenkuifloerie.....	<i>Turacus corythaix.</i>
Purple-crested Lourie.....	Bloukuifloerie.....	<i>Gallirex porphyriolophus.</i>
All Swallows.....	Alle Swawels.....	<i>Hirundinidae.</i>
	Comprising the following species :—	
European Swallow.....	Europese Blouswawel.....	<i>Hirundo rustica.</i>
White-throated Swallow.....	Witkeelblouswawel.....	<i>Hirundo abigarlaris.</i>
Blue Swallow.....	Langstertblouswawel.....	<i>Natalornis atrocerulea.</i>
Wire-tailed Swallow.....	Klein Blouswawel.....	<i>Uromitris smithi.</i>
Greater Stripe-breasted Swallow.....	Groot Gestreepte Swawel.....	<i>Cecropis cucullata.</i>
Lesser Stripe-breasted Swallow.....	Klein Gestreepte Swawel.....	<i>Cecropis puella.</i>
Red-breasted Swallow.....	Rooiborsswawel.....	<i>Phoenichelidon semirufa.</i>
Rock Martin.....	Vaalkranswawel.....	<i>Pythonoprogue fuligula.</i>
Cliff Swallow.....	Famille-swawel.....	<i>Petrochelidon spilodera.</i>
Pearl-breasted Swallow.....	Witborsswawel.....	<i>Hemicecrops dimidiata.</i>
Cape Rough-winged Swallow.....	Swartswawel.....	<i>Psalidoproone holomelaena.</i>
European Sand Martin.....	Europese Vaalswawel.....	<i>Riparia riparia.</i>
African Sand Martin.....	Afrikaanse Vaalswawel.....	<i>Cheimonornis paludicola.</i>
Banded Sand Martin.....	Gestreepte Vaalswawel.....	<i>Neophedina cinota.</i>
Wagtails and Longclaws.....	Kwikstertjies en Kalkoentjies.....	<i>Motacillidae.</i>
	Comprising the following species :—	
Cape Wagtail.....	Kaapse Kwikstertjie.....	<i>Pomophilus capensis.</i>
African Pied Wagtail.....	Witkwikstertjie.....	<i>Motacilla vidua.</i>
Gariep Pied Wagtail.....	Gariep-kwikstertjie.....	<i>Motacilla agurmp.</i>
African Long-tailed Wagtail.....	Langstert-kwikstertjie.....	<i>Atolmodytes clara.</i>
Grey-headed Yellow Wagtail.....	Gryskop-geelkwikstertjie.....	<i>Budytes flavus.</i>
Bay's Yellow Wagtail.....	Geelkwikstertjie.....	<i>Budytes flavifrons.</i>
Cape Longclaw.....	Kaapse Kalkoentjie.....	<i>Macronyx capensis.</i>
Yellow Longclaw.....	Geelkalkoentjie.....	<i>Macronyx croceus.</i>
Yellow-breasted Pipit.....	Geelborskoester.....	<i>Hemimacronyx chloris.</i>
Wattled Starling.....	Vaal- of Sprinkaan-spreeu.....	<i>Creatophora carunculata.</i>
All Owls.....	Alle Uile.....	<i>Bubonidae et Tytonidae.</i>
	Comprising the following species :—	
Spotted Eagle Owl.....	Groot Ooruil.....	<i>Bubo africanus.</i>
Cape Marsh Owl.....	Vlei-uil.....	<i>Phasmaptynx capensis.</i>
White-faced Owllet.....	Wit-uiltjie.....	<i>Phlopsis leucotis.</i>
Cape Scops Owllet.....	Klein Ooruiltjie.....	<i>Pisiorhina capensis.</i>
Bush Owl.....	Bosuil.....	<i>Strix woodfordi.</i>
Barred Owllet.....	Gestreepte Uiltjie.....	<i>Smithyglaux capensis.</i>
Pearl-spotted Owllet.....	Gespikkelde Uiltjie.....	<i>Microglaux perlata.</i>
Barn Owl.....	Nonnetjie-uil.....	<i>Tyto alba.</i>
Grass Owl.....	Gras-uil.....	<i>Tyto capensis.</i>

<i>English Common Nomenclature.</i>	<i>Afrikaans Common Nomenclature.</i>	<i>Scientific Nomenclature.</i>
	The following species of Falcons :—	
B lack-shouldered Kite.....	Witvalk.....	<i>Elanus caeruleus.</i>
Cuvier's Falcon.....	Cuiviersvalk.....	<i>Falco (Cuvieria) cuvieril.</i>
Rufous-necked Falcon.....	Rooinekvalk.....	<i>Falco (Chippuera) ruficollis.</i>
Horsbrugh's Falcon.....	Horsbrughsvalk.....	<i>Falco (Chippuera) horsbrughii.</i>
Pigmy Falcon.....	Dwergvalk.....	<i>Polhierax emitor uata</i>
Western Red-legged Kestrel.....	Rooipootvalk.....	<i>Erythropus vespertinus.</i>
Eastern Red-footed Kestrel.....	Oostelike Rooipootvalk.....	<i>Erythropus amurensis.</i>
Grey Kestrel.....	Grysvalk.....	<i>Disodectes dickinsoni.</i>
Cape Kestrel.....	Gewone Rooivalk.....	<i>Cerchnies rupicola.</i>
Great Kestrel.....	Groot Rooivalk.....	<i>Cerchnies (Megacerchnies) rupicoloides.</i>
Naumann's Kestrel.....	Naumanns Rooivalk.....	<i>Cerchnies (Tichornis) naumanni.</i>
Secretary Bird.....	Sekretarisvoël.....	<i>Sagittarius.</i>
Ground Hornbill.....	Bromvoël.....	<i>Bucorvus cafer.</i>
Butcher Bird (Jack-hanger).....	Laksman.....	<i>Lanius collaris.</i>
Crane, Crested.....	Mahem.....	<i>Chrysopelargus balearica.</i>
ANIMALS.		
Antbear.....	Aardvark.....	<i>Orycteropus afer.</i>
Aardwolf.....	Maanhaar-jakkals.....	<i>Proteles cristatus.</i>

## AN ORDINANCE

## To Validate the Game Ordinance, 1935.

BE IT ENACTED by the Provincial Council of Transvaal as follows:—

**Validation of certain Provisions of Game Ordinance, 1935.**

1. All the provisions of the Game Ordinance, 1935, which are invalid by reason of the fact that the Provincial Council had no power to legislate in regard thereto at the time when the said Ordinance was passed, are hereby enacted and inserted in the said Ordinance as part thereof.

**Short Title.**

2. This Ordinance shall be known as the Game Ordinance Validation Ordinance, 1936.

**No. 12 of 1935.—Shop Hours Amendment.—Principal Ordinance, No. 5 of 1923.**

*Section 1.—Substitutes a new section 1 in the Principal Ordinance. Sub-section (2) of this section has subsequently been repealed by the Shops and Offices Act, 1939.*

*Section 2.—Amends section 2 of the Principal Ordinance.*

*Section 3.—Amends section 3 of the Principal Ordinance.*

*Section 4.—Amends section 4 of the Principal Ordinance.*

*Section 5.—Amending section 9 of the Principal Ordinance has been repealed by the Shops and Offices Act, 1939.*

*Section 6.—Amends section 14 of the Principal Ordinance.*

*Section 7.—Short Title.*

**No. 1 of 1936.—Appropriation (Part 1936-1937).**

**No. 2 of 1936.—Additional Appropriation (1935-1936).**

**No. 3 of 1936.—Unauthorized Expenditure (1933-1934).**

**No. 4 of 1936.—Game Validation.—Full text printed at the end of the Game Ordinance, No. 11 of 1935.**

**No. 5 of 1936.—Wheel Tax Repeal (but see Ordinance No. 1 of 1941).**

**No. 6 of 1936.—Entertainments Tax Amendment.**

*Section 1.—Amends section 2 of Ordinance No. 19 of 1931. (N.B.—this amendment was repealed by section 1 of Ordinance No. 15 of 1940).*

*Section 2.—Repeals section 3 of Ordinance No. 19 of 1931.*

*Section 3.—Short Title.*

**No. 7 of 1936.—Appropriation (1936-1937).**

**No. 8 of 1936.—Shop Hours Amendment.—Principal Ordinance, No. 5 of 1923.**

*Section 1.—Amends section 1 of the Principal Ordinance.*

*Section 2.—Amends section 3 of the Principal Ordinance.*

*Section 3.—Short Title.*

**No. 9 of 1936.—Local Authorities Rating Amendment.—Principal Ordinance, No. 20 of 1933.**

*Section 1.—Amends section 4 of the Principal Ordinance.*

*Section 2.—Amends section 9 of the Principal Ordinance.*

*Section 3.—Amends section 16 of the Principal Ordinance.*

*Section 4.—Amends section 18 of the Principal Ordinance.*

*Section 5.—Amends section 22 of the Principal Ordinance.*

*Section 6.—Short Title.*

**No. 10 of 1936.—Game Amendment.**

*Section 1.*—Amends section 7 of Ordinance No. 11 of 1935.

*Section 2.*—Amends section 9 of Ordinance No. 11 of 1935.

*Section 3.*—Short Title.

**No. 11 of 1936.—Public Hospitals Amendment.—Principal Ordinance, No. 18 of 1928.**

*Section 1.*—Definition of Principal Ordinance.

*Section 2.*—Amends section 2 of the Principal Ordinance.

*Section 3.*—Amends section 9 of the Principal Ordinance.

*Section 4.*—Amends section 10 of the Principal Ordinance.

*Section 5.*—Amends section 12 of the Principal Ordinance.

*Section 6.*—Amends section 13 of the Principal Ordinance.

*Section 7.*—Repeals sub-section (5) of section 31 of the Principal Ordinance.

*Section 8.*—Amends section 50 of the Principal Ordinance and provides in sub-section (2) thereof for the preservation of existing leave regulations—see revised print of section 50.

*Section 9\*.*—Repealed by the Public Hospitals Amendment Ordinance, 1943.

*Section 10.*—Amends section 30 of the Principal Ordinance.

*Section 11, 12 and 13\*.*—Repealed by the Public Hospitals Amendment Ordinance, 1943.

*Section 14.*—Substitutes a new section 77 in the Principal Ordinance.

*Section 15.*—Fixes a time limit for civil actions—section embodied in Principal Ordinance as printed herein.

*Section 16.*—Short Title.

\*N.B.—The provisions of these sections have been re-enacted by the Public Hospitals Amendment Ordinance, 1943, Chapter IV FINANCIAL as substituted thereby.

**No. 1 of 1937.—Appropriation (Part 1937-1938).**

**No. 2 of 1937.—Additional Appropriation (1936-1937).**

**No. 3 of 1937.—Unauthorized Expenditure (1934-1935).**

**No. 4 of 1937.—Licensing and Control of Dogs Amendment.**

*Section 1.*—Amends section 4 of the Afrikaans version of Ordinance No. 18 of 1933.

*Section 2.*—Short Title.

**No. 5 of 1937.—Personal and Income Taxes Amendment.**

*Section 1.*—Amends section 8 (2) of Ordinance No. 10 of 1928.

*Section 2.*—Short Title.

**No. 6 of 1937.—Main Reef Road Amendment.—Repealed by Ordinance No. 12 of 1938.**

**No. 7 of 1937.—Appropriation (1937-1938).**

**No. 8 of 1937.—Roads Amendment.—**

*Section 1.*—Amends section forty-five of the Principal Ordinance.

*Section 2.*—Adds a new clause (d) to section 13 of the Principal Ordinance.

*Section 3.*—Substitutes a new section 15 in the Principal Ordinance.

**Application of amended provisions of principal law.**

*Section 4.*—The provisions of the principal law as amended by this Ordinance shall apply to all *ex officio* members of road boards whether appointed before or after the commencement of this Ordinance.

*Section 5.*—Adds after section 36 a new section 36 bis providing that “applications for the closing or deviation of roads are to be submitted to the Administrator where the applicant so requests. This section has been embodied in the Principal Law as printed herein.”

**No. 9 of 1937.—Municipal Elections Amendment.—Principal Ordinance, No. 4 of 1927.**

*Section 1.*—Amends section 6 of the Principal Ordinance.

*Section 2.*—Amends section 12 of the Principal Ordinance.

*Section 3.*—Amends section 15 of the Principal Ordinance.

*Section 4.*—Amends section 30 of the Principal Ordinance.

*Section 5.*—Amends section 31 of the Principal Ordinance.

*Section 6.*—Amends section 116 of the Local Government Ordinance, 1926—since repealed by the local Government Ordinance, 1939.

*Section 7.*—Adds a new sub-section (2) to section 124 of the Principal Ordinance.

*Section 8.*—Amends section 126 of the Principal Ordinance.

*Section 9.*—Amends the Third Schedule to the Principal Ordinance.

*Section 10.*—Short Title.

**No. 10 of 1937.—Local Government Superannuation Amendment.—Principal Ordinance, No. 16 of 1930.**

*Section 1.*—Interpretation of terms:

(1) Defines the expression *Principal Ordinance*.

(2) Adds new definitions (now embodied in the *Principal Ordinance*) of “new member” and “old member”.

*Section 2.—Amends section 9 of the Principal Ordinance.*

*Section 3.—Repeals section 12 of the Principal Ordinance and substitutes a new section 12.*

*Section 4.—Amends section 14 of the Principal Ordinance.*

*Section 5.—Amends section 16 of the Principal Ordinance.*

*Section 6.—Repeals and substitutes a new section 18 of the Principal Ordinance.*

*Section 7.—Repeals and substitutes a new section 19 of the Principal Ordinance.*

*Section 8.—Repeals and substitutes a new section 20 of the Principal Ordinance.*

*Section 9.—Repeals and substitutes a new section 21 of the Principal Ordinance.*

*Section 10.—Amends section 22 of the Principal Ordinance.*

*Section 11.—Amends section 23 of the Principal Ordinance.*

*Section 12.—Amends section 24 of the Principal Ordinance.*

*Section 13.—Repeals and substitutes a new section 25 of the Principal Ordinance.*

*Section 14.—Amends section 26 of the Principal Ordinance.*

*Section 15.—Repeals and substitutes a new section 27 of the Principal Ordinance.*

*Section 16.—Amends section 32 of the Principal Ordinance.*

*Section 17.—Amends section 38 of the Principal Ordinance.*

*Section 18.—Repeals section 39 of the Principal Ordinance.*

*Section 19.—Adds a new sub-section (2) to section 42 of the Principal Ordinance.*

*Section 20.—Amends section 44 of the Principal Ordinance.*

*Section 21.—Amends section 46 of the Principal Ordinance.*

*Section 22.—Amends section 48 of the Principal Ordinance.*

*Section 23.—Adds a new sub-section (4) to section 51 of the Principal Ordinance.*

*Section 24\*.—This section—now embodied in the Principal Ordinance gives old members the option to be subject to the provisions of section 18(2) of the Principal Ordinance.*

*Section 25\*.—This section—now embodied in the Principal Ordinance makes provision for local authorities with less than ten employees, to establish a provident fund.*

*Section 26.—Short Title.*

\*Printed as following on section 48 in the Revised Ordinance.

**No. 1 of 1938.—Additional Appropriation (1937-1938).**

**No. 2 of 1938.—Appropriation (Part 1938-1939).**

**No. 3 of 1938.—Unauthorized Expenditure (1935-1936).**

**No. 4 of 1938.—Appropriation (1938-1939).**

**No. 5 of 1938.—Financial Adjustments.—Disposal of £778,268 surplus revenue.**

**No. 6 of 1938.—Horse Racing and Betting Amendment.**

*Section 1.—Amends section 21 of Ordinance No. 9 of 1927.*

*Section 2.—Short Title.*

**No. 7 of 1938.—Fish Preservation Amendment.**

*Section 1.—Amends section 7 of Ordinance No. 10 of 1921.*

*Section 2.—Short Title.*

**No. 8 of 1938.—Licensing of Bookmakers and Taxation Amendment.**

*Section 1.—Amends section 6 of Ordinance No. 26 of 1925.*

*Section 2.—Short Title.*

**No. 9 of 1938.—Education Act Amendment.**

**No. 10 of 1938.—Townships and Townplanning Amendment.—Principal Ordinance, No. 11 of 1931.**

*Section 1.—Amends section 44 of the Principal Ordinance.*

*Section 2.—Amends section 47 of the Principal Ordinance.*

*Section 3.—Amends section 49 of the Principal Ordinance.*

*Section 4.—Amends section 52(1) of the Principal Ordinance.*

*Section 5.—Amends section 53 of the Principal Ordinance.*

*Section 6.—Amends section 58 of the Principal Ordinance.*

*Section 7.—Amends the First Schedule to the Principal Ordinance.*

*Section 8.—Repealed by section 28 of Ordinance No. 20 of 1941.*

*Section 9.—Short Title.*

**No. 11 of 1938.—Transvaal Hospital Nurses' Pensions Amendment.**

*Section 1.—Amends section 8 of Ordinance No. 13 of 1919.*

*Section 2.—Provides that the alteration in the scale of contributions will not affect prior contributions. Section printed at the end of section 8 in the Revised Ordinance No. 13 of 1919.*

*Section 3.—Short Title.*

No. 12 of 1938.]

[Assented to 3rd June, 1938.]

## MAIN REEF ROAD REPEAL.

(Date of operation, 1st October, 1938.)

(Afrikaans copy signed by Governor-General.)

## AN ORDINANCE

To repeal the Main Reef Road Ordinance, No. 17 of 1928.

BE IT ENACTED by the Provincial Council of Transvaal as follows:—

**Repeal.**

1. The laws mentioned in the Schedule to this Ordinance shall be and are hereby repealed to the extent set forth in the third column of such Schedule.

**Liabilities of Local Authorities taken over by Administration.**

2. Immediately after the coming into operation of this Ordinance, all local authorities shall be relieved of all financial responsibility for redemption and interest on all loans, which have been raised or are in the course of being raised in terms of sub-section (2) of section six of the Main Reef Road Ordinance No. 17 of 1928 hereby repealed, for the reconstruction of the road and the debts due by them so incurred shall form a charge against the Administration.

**Date of coming into Operation.**

3. This Ordinance shall come into operation upon a date to be fixed by the Administrator by Proclamation in the *Gazette*.

**Short Title.**

4. This Ordinance shall be known as the Main Reef Road (Repeal) Ordinance, 1938.

## SCHEDULE.

<i>No. and Year of Law.</i>	<i>Title or Subject of Law.</i>	<i>Extent of Repeal.</i>
Ordinance No. 17 of 1928	The Main Reef Road Ordinance, 1928.....	The whole.
Ordinance No. 6 of 1931	The Main Reef Road Amendment Ordinance, 1931.....	The whole.
Ordinance No. 6 of 1935	The Main Reef Road Amendment Ordinance, 1935.....	The whole.
Ordinance No. 6 of 1937	The Main Reef Road Amendment Ordinance, 1937.....	The whole.

**No. 13 of 1938.—Companies Tax Amendment.—Principal Ordinance, No. 12 of 1933.**

Section 1.—Definition of Principal Ordinance.

Section 2.—Amends section two of the Principal Ordinance.

Section 3.—Amends section three of the Principal Ordinance.

Section 4.—Substitutes a new section five in the Principal Ordinance.

Section 5.—Substitutes a new section six in the Principal Ordinance.

Section 6.—Adds, after section six, a new section six bis dealing with the issue of assessments to Companies.

Section 7.—Amends section seven of the Principal Ordinance.

Section 8.—Amends section nine of the Principal Ordinance.

Section 9.—Amends section ten of the Principal Ordinance.

Section 10.—Amends section twelve of the Principal Ordinance.

Section 11.—Short title.

**No. 14 of 1938.—Income and Personal Taxes Amendment.—Principal Ordinance, No. 10 of 1928.**

Section 1.—Definition of Principal Ordinance.

Section 2.—Amends section one of the Principal Ordinance.

Section 3.—Amends section two of the Principal Ordinance.

Section 4.—Amends section two (A) of the Principal Ordinance.

Section 5.—Amends section three of the Principal Ordinance.

Section 6.—Amends section four of the Principal Ordinance.

Section 7.—Adds, after section five a new section 5 bis dealing with the issue of assessments to income tax payers.

Section 8.—Amends section eight of the Principal Ordinance.

Section 9.—Substitutes a new section twelve in the Principal Ordinance.

Section 10.—Substitutes a new section thirteen in the Principal Ordinance.

Section 11.—Short title.

No. 15 of 1938.]

(Assented to 16th June 1938.)

## AGRICULTURAL SCHOOLS TRANSFER.

(Date of operation 6th July 1938.)

(Afrikaans copy signed by Governor-General.)

## ORDINANCE

To provide for the Regulation, Maintenance and Control of the Agricultural Schools, the Control of which has been transferred to the Transvaal Provincial Administration under the provisions of Act No. 30 of 1937.

BE IT ENACTED by the Provincial Council of Transvaal as follows:—

Provisions of Act No. 25, 1907, to be Applicable to Agricultural Schools transferred to Province by Act No. 30, 1937.

1. As from the coming into operation of this Ordinance the two schools mentioned in the Schedule to Act No. 30 of 1937 under the heading *In the Province of the Transvaal* shall be deemed to be schools established under section *twenty-four* of the Transvaal Education Act, No. 25 of 1907, as amended, and all the provisions of the said Education Act and of the Regulations, Notices and Proclamations thereunder and of any other law applicable to such schools, to scholars attending such schools, to members of the teaching and clerical staff attached to such schools, to hostels and hostel staffs in connection with such schools and generally to all matters and persons connected with such schools, shall, subject to the provisions of Act No. 30 of 1937, apply to the said two schools.

**Short Title.**

2. This Ordinance shall be known as the Agricultural Schools (Transfer) Ordinance, 1938.

**No. 16 of 1938.—Motor Vehicle Amendment.—Principal Ordinance, No. 17 of 1931.**

*Section 1.—Amends section one of the Principal Ordinance.*

*Section 2.—Amends section four the Principal Ordinance.*

*Section 3.—Amends section seven of the Principal Ordinance.*

*Section 4.—Amends section nine of the Principal Ordinance.*

*Section 5.—Amends section twelve of the Principal Ordinance.*

*Section 6.—Amends section sixteen (a) of the Principal Ordinance.*

*Section 7.—Adds a new sub-section (2) to section twenty-five of the Principal Ordinance.*

*Section 8.—Adds a new sub-section (7) to section twenty-six of the Principal Ordinance.*

*Section 9.—Amends section twenty-nine of the Principal Ordinance.*

*Section 10.—Amends section thirty-seven of the Principal Ordinance.*

*Section 11.—Amends paragraph (a) of Item (1) of Part III of the First Schedule to the Principal Ordinance.*

*Section 12.—Repeals the Second Schedule to the Principal Ordinance.*

*Section 13.—Short Title.*

**No. 17 of 1938.—Roads Amendment.—Principal Ordinance, No. 9 of 1933.**

*Section 1.—Amends section forty-five of the Principal Ordinance.*

*Section 2.—Amends section forty-seven of the Principal Ordinance.*

*Section 3.—Amends section fifty-seven of the Principal Ordinance.*

*Section 4.—Amends section seventy-eight of the Principal Ordinance.*

*Section 5.—Short Title.*

**No. 18 of 1938.—Pensions (Supplementary).—Confers Pensionable Benefits on Anne Freedman, 1939.**

**No. 1 of 1939.—Unauthorized Expenditure (1936-1937).**

**No. 2 of 1939.—Appropriation (Part 1939-1940).**

**No. 3 of 1939.—Additional Appropriation (1938-1939).**

**No. 4 of 1939.—Motor Vehicle Amendment.—Principal Ordinance, No. 17 of 1939.**

*Section 1.—Amends section two of the Principal Ordinance.*

*Section 2.—Amends section four of the Principal Ordinance.*

*Section 3.—Amends section five of the Principal Ordinance.*

*Section 4.—Short Title.*

**No. 5 of 1939.—Personal and Income Taxes Amendment.**

*Section 1.—Amends section one of Ordinance No. 10 of 1928.*

*Section 2.—Short Title.*

**No. 6 of 1939.—Licensing and Control of Dogs Amendment.**

*Section 1.—Amends section six of the Principal Ordinance (No. 18 of 1933).*

*Section 2.—Amends section ten of the Principal Ordinance.*

*Section 3.—Short Title.*

**No. 7 of 1939.—Roads Amendment.**

*Section 1.*—Amends section sixty-four of Ordinance No. 9 of 1933.

*Section 2.*—Short Title.

**No. 8 of 1939.—Mineral Baths (Control and Management) Amendment.**

*Section 1.*—Amends section fifteen of Ordinance No. 10 of 1933.

*Section 2.*—Short Title.

**No. 9 of 1939.—Transvaal Hospital and School Board Officials' Pensions Amendment.**—Principal Ordinance, No. 14 of 1927.

*Section 1.*—Amends section three of the Principal Ordinance.

*Section 2.*—Amends section seven of the Principal Ordinance.

*Section 3.*—Short Title.

**No. 10 of 1939.—Pensions (Supplementary) Amendment.**

*Section 1.*—Amends the Schedule to the Pensions (Supplementary) Ordinance, 1938.

*Section 2.*—Short Title.

**No. 11 of 1939.—Horse Racing and Betting Amendment.**—Principal Ordinance, No. 9 of 1927.

*Section 1.*—Amends section one of the Principal Ordinance.

*Section 2.*—Amends section twelve of the Principal Ordinance.

*Section 3.*—Adds, after section nineteen of the Principal Ordinance, a new section nineteen bis providing for presumptions in certain cases.

*Section 4.*—Amends section twenty of the Principal Ordinance.

*Section 5.*—(1) The provisions of Chapter I of the Principal Law shall not apply to any dog race conducted under the provisions of Ordinance No. 3 of 1926, as amended.

*Section 5.*—(2) Nothing in this Ordinance or in the Principal Law contained shall affect the provisions of Ordinance No. 3 of 1926 as amended by Ordinance No. 15 of 1933 in respect of the days on which and the time when Whippet or Dog Racing may be held.

(N.B.—The Dog Racing Ordinance, 1940, which repeals Ordinance No. 3 of 1926 also repeals so much of the Horse Racing and Betting Ordinance as refers to Dog Racing.)

*Section 6.*—Short Title.

**No. 12 of 1939.—Appropriation (1939-1940).**

**No. 13 of 1939.—Local Authorities Rating Amendment.**—Principal Ordinance, No. 20 of 1933.

*Section 1.*—Amends section three of the Principal Ordinance.

*Section 2.*—Amends section four of the Principal Ordinance.

*Section 3.*—Amends section nine of the Principal Ordinance.

*Section 4.*—Amends section twelve of the Principal Ordinance.

*Section 5.*—Amends section thirteen of the Principal Ordinance.

*Section 6.*—Amends section fifteen of the Principal Ordinance.

*Section 7.*—Amends section nineteen of the Principal Ordinance.

*Section 8.*—Amends the Second Schedule to the Principal Ordinance by the substitution of a new Schedule.

*Section 9.*—Short Title.

**No. 14 of 1939.—Education Act Amendment.**

**No. 15 of 1939.—Whippet Racing Control Amendment.**—Repealed by Ordinance No. 16 of 1940.

**No. 16 of 1939.—Financial Adjustments.**—For the disposal of £500,000 surplus revenue.

**No. 17 of 1939.]**

[Assented to 15th November 1939.]

LOCAL GOVERNMENT.

(Date of operation 1st December 1939.)

(English copy signed by Governor-General.)

#### AN ORDINANCE

**To Consolidate and Amend the Law relating to Municipal Government in this Province, and to provide for matters incidental thereto.**

BE IT ENACTED by the Provincial Council of Transvaal as follows:—

#### PRELIMINARY.

##### Repeal of Laws.

1. The Laws mentioned in the First Schedule to this Ordinance shall be and are hereby repealed to the extent set forth in the second column of such Schedule.

##### Interpretation of Terms.

2. In this Ordinance unless inconsistent with the context—

“Administrator” shall mean the officer appointed under sub-section (1) of section sixty-eight of the South Africa Act, 1909 and any amendment



thereof acting on the advice and with the consent of the Executive Committee of the Province;

“ Asiatic ” includes any person belonging to the native races of Asia, not being a Malay born and resident in any British Colony or Possession in South Africa, and not being an officer in the diplomatic or consular service of any Asiatic State or Dominion;

“ author of a nuisance ” shall mean the person by whose act, default or sufferance the nuisance is caused, exists or is continued;

“ by-law ” shall mean a by-law in force in a municipality and any outside area thereof made and approved under this Ordinance or under the authority of any law;

“ coloured person ” shall mean any person who is manifestly a coloured person not being a native or Asiatic as by this Ordinance defined;

“ commencement of this Ordinance ” shall mean the date on which this Ordinance came into operation;

“ Governor-General ” shall mean the officer administering the Government of the Union of South Africa acting by and with the advice and consent of the Executive Council thereof;

“ health committee ” shall mean a committee constituted under and by virtue of the provisions of Chapter IX of this Ordinance;

“ local authority ” shall mean and include a town council or village council or health committee;

“ magistrate ” shall mean the magistrate of a magisterial district or sub-district in which a municipality is situate, and in the case of a municipality situate within a portion of a magisterial district for which an additional magistrate has been appointed, the term “ magistrate ” shall include also such additional magistrate;

“ medical officer of health ” shall mean the person for the time being lawfully acting in the capacity either of medical officer of health or of assistant medical officer of health of the local authority;

“ Minister ” shall mean the Minister of Public Health of the Union;

“ municipality ” shall mean the area or district placed under the control and jurisdiction of a town council or of a village council;

“ native ” means any person who is a member of an aboriginal race or tribe of Africa. Where there is any reasonable doubt as to whether any person falls within this definition, the burden of proof shall be upon such person;

“ nuisance ” shall include, *inter alia*—

(1) any premises or part thereof of such a construction or in such a state as to be offensive, injurious, or dangerous to health;

(2) any street, stream, pool, lagoon, ditch, gutter, water-course, sink, cistern, water-closet, earth-closet, privy, urinal, cesspool, drain, sewer, waste-water receptacle, slop-tank, dung-pit, ash-bin, ash-pit or manure heap so foul or in such a state or so situated or constructed as to be a nuisance, offensive or to be injurious or dangerous to health;

(3) any well or water supply injurious or dangerous to health;

(4) any tank or cistern used for the supply of water for domestic purposes so placed, constructed or kept as to render the water therein liable to contamination, causing or likely to cause risk to health or facilitate the breeding of mosquitoes;

(5) any stable cowshed, animal kraal, fowl house, or premises in which any animal or animals or bird or birds are kept in such a manner or in such numbers as to be offensive, injurious, or dangerous to health;

(6) any accumulation or deposit of refuse, offal, manure or other matter which is offensive, injurious, or dangerous to health, or any offensive matter, refuse, offal or manure lying or being within fifty yards of any street, or contained in uncovered trucks or wagons standing at or being at any station or siding or elsewhere on a railway so as to be offensive, injurious, or dangerous to health;

(7) any work, manufacture, trade or business causing or giving rise to smells or effluvia which are offensive or which are injurious to the health of the neighbourhood or so conducted as to be offensive, injurious, or dangerous to health;

(8) (a) any house or part of a house so overcrowded as to be injurious or dangerous to the health of the inmates, or in which there is not for each person simultaneously occupying the same, whether by night or day, at least 400 cubic feet space and 40 square feet of floor space; provided that this sub-section shall not apply to the housing of natives on mine compounds;

(b) any occupied dwelling for which a proper, sufficient and wholesome water supply is not available within a reasonable distance as under the circumstances it is possible to obtain;

(9) any school-house or any factory, workshop or workplace or portion thereof;

(a) which is not kept in a clean state and free from effluvia arising from any drain, privy, water-closet, earth-closet, urinal or other source of nuisance, or

(b) which is not ventilated in such a manner as to render harmless, as far as practicable, any gases, vapours, dust or other impurities generated in the course of the work carried on therein that are offensive, injurious, or dangerous to health, or

(c) in which the average proportion of carbonic acid in the air at about breathing level exceeds 10 volumes in 10,000 or, where gas or oil is used for lighting purposes, exceeds 18 volumes in 10,000, while such gas or oil is in actual use, or

(d) which is so overcrowded while work is carried on as to be injurious or dangerous to the health of those therein employed;

(10) any chimney sending forth smoke in such quantity or in such a manner as to be offensive, injurious, or dangerous to health;

(11) any churchyard, cemetery or other place of burial so situated or so crowded or otherwise so conducted as to be offensive, injurious, or dangerous to health;

(12) any other condition whatever which is offensive, injurious, or dangerous to health, the generality of this provision not being limited by the particular matters provided in the preceding sub-sections;

Provided that—

(a) a penalty shall not under any by-law or regulation be imposed on any person in respect of any accumulation or deposit necessary for or arising out of the carrying on of any business, trade or manufacture if the accumulation or deposit has not been kept longer than is necessary for the purposes of business, trade or manufacture, and all available means have been taken for preventing injury or danger thereby to the public health, provided that the said business is being lawfully carried out and is lawfully conducted at the premises in any locality; and

(b) in considering whether any dwelling-house or part thereof which is also used as a factory or work-shop, or whether any factory or workshop used also as a dwelling-house is a nuisance by reason of overcrowding, regard shall be had to the circumstances of such other use;

“occupier” shall include any person in actual occupation of land or premises without regard to the title under which he occupies, and, in the case of premises sub-divided and let to lodgers or various tenants, shall include the person receiving the rent payable by the lodgers or tenants whether on his own account or as agent for any person entitled thereto or interested therein;

“outside area” shall mean any land or interest in land held by a council for municipal purposes outside the municipality and not forming part of any other municipality;

“owner” shall include any person receiving the rent or profits of any land or premises from any tenant or occupier thereof, or who would receive such rents or profits if such land or premises were let, whether on his own account or as agent for any person entitled thereto or interested therein;

“premises” shall include any land, building, room, structure, tent, van, vehicle, stream, lake, dam, pool, lagoon, drain, ditch (open, covered or enclosed) whether built on or not and whether public or private;

“Province” shall mean the Province of Transvaal;

“public place” shall include any road, street, thoroughfare, bridge, overhead bridge, subway, foot pavement, footpath, sidewalk, lane square, open space, garden, park, enclosed space vested in a town or village council under section *sixty-three* of this Ordinance, provided that for the purposes of by-laws regulating traffic under this Ordinance the expression “public place” includes any road, place or thoroughfare however created which is in the undisturbed use of the public or which the public have the right to use;

“public vehicle” shall include any cab, cart, omnibus, jinricksha, trolley, lorry, motor vehicle and any other vehicle standing or plying for hire in any public place within the municipality or used or intended to be used for carrying passengers or goods or both for hire or reward;

“registered midwife” shall mean every person registered in terms of section *twenty-nine* of Act No. 13 of 1928 or any amendment thereof;

“Regulation” shall mean a regulation made by the Administrator under this Ordinance and in force in the area of jurisdiction of any local authority;

“sanitary or health inspector” shall mean and include any person for the time being lawfully acting in the capacity of sanitary inspector of the local authority;

“street” includes any street, road or thoroughfare shown on the general plan of a township or in respect of which the public have acquired a prescriptive or other right of way;

“street trading” shall include the hawking of newspapers, the distribution of handbills or other advertisements, shoeblackening and any other like occupation carried on in public places and the sale of any articles whatsoever in public places; and “street trader” shall include any person who engages in any such occupation so carried on, but shall not include a hawk or pedlar as defined in Part I of the Second Schedule to the Licences Consolidation Act, 1925 or any amendment thereof;

“town clerk” or “town treasurer” shall mean the persons for the time being lawfully acting respectively in the capacities of town clerk and town treasurer for the municipality;

“town council” shall mean a council constituted under and by virtue of the provisions of Chapter I of this Ordinance, and shall include City Councils;

“Townships Act” shall mean the Township Act No. 33 of 1907 (Transvaal) and any amendment thereof, read with the Townships and Town Planning Ordinance, 1931 and any amendment thereof;

“village council” shall mean a council constituted under and by virtue of the provisions of Chapter VIII of this Ordinance.

#### Application of Ordinance.

3. This Ordinance shall apply to every local authority constituted thereunder in the manner and to the extent prescribed therein.

#### Non-application of certain Laws.

4. (1) Save as is provided in this Ordinance, the provisions of the Pounds Ordinance, 1913, and any amendments thereof shall not apply to any pound established by a local authority nor to any area under the jurisdiction of a health committee.

(2) The provisions of the Registration and Control of Dogs Act, 1907, and any amendment thereof, shall not apply within any municipality, nor within any area of jurisdiction of a health committee, as soon as by-laws or regulations imposing a tax upon the keeping of dogs and for dealing with dogs have come into operation in such area.

(3) The provisions of Law No. 8 of 1888 shall not apply to any market established or carried on by a local authority as soon as by-laws or regulations relating to such market have come into operation.

(4) The provisions of Law No. 13 of 1894 or any amendment thereof shall not apply to the business of pawnbroking carried on within any municipality in which by-laws or regulations relating to pawnbrokers have come into operation.

#### Division of Ordinance.

5. This Ordinance is divided into chapters referring to the following matters respectively—

Chapter I. Constitution of Town Councils (section *one to fifteen*).

Chapter II. Mayor and Deputy-Mayor of Town Councils (section *sixteen to nineteen*).

Chapter III. Meetings and Proceedings of Municipal Councils (sections *twenty to thirty-eight*).

Chapter IV. Conduct of Members and Servants of Municipal Councils (sections *thirty-nine to forty-seven*).

Chapter V. Financial—

Part I. Revenues and Borrowing Powers (section *forty-eight to fifty-five*).

Part II. Accounts and Audit (section *fifty-six to sixty-one*).

Chapter VI. Powers and Duties of Municipal Councils—

Part I. General powers (sections *sixty-two to eighty*).

Part II. Works (sections *eighty-one to eighty-eight*).

Chapter VII. Provisions as to Licences and By-laws—

Part I. Licences (sections *eighty-nine to ninety-five*).

Part II. By-laws (sections *ninety-six to one hundred and thirteen*).

Chapter VIII. Village Councils—

Part I. Constitution (sections *one hundred and fourteen to one hundred and eighteen*).

Part II. Powers and Duties (sections *one hundred and nineteen to one hundred and twenty-two*).

Chapter IX. Health Committees (sections *one hundred and twenty-three to one hundred and twenty-nine*).

Chapter X. Special Powers of Town Councils—

Part I. Special Provisions (sections *one hundred and thirty to one hundred and thirty-two*).

Part II. Sewerage and Drainage Works (sections *one hundred and thirty-three to one hundred and forty-three*).

Part III. Other Works (sections *one hundred and forty-four to one hundred and fifty-two*).

Chapter XI. General—

Part I. Powers of Administrator in Local Authority's Default or in Emergency (sections *one hundred and fifty-three to one hundred and fifty-six*).

Part II. Reconstitution of Local Authorities (sections *one hundred and fifty-seven to one hundred and sixty*).

Part III. Miscellaneous (sections *one hundred and sixty-one to one hundred and seventy-three*).

CHAPTER I.

CONSTITUTION OF TOWN COUNCILS.

**Establishment of Town Councils for certain existing Municipalities.**

6. (1) The councils of municipalities lawfully established prior to the commencement of this Ordinance and mentioned in the Second Schedule to this Ordinance, shall be deemed to be town councils constituted under this Ordinance, and the members thereof shall be elected under the provisions of the Municipal Elections Ordinance, 1927 and any amendment thereof, and such councils shall under the name of the town council of ..... (the name of the town by which each council was designated prior to the commencement of this Ordinance) be each and severally a body corporate with perpetual succession and a common seal (with power to alter and change such seal from time to time), and shall by such name be capable in law of suing and being sued, of purchasing, holding, and alienating land, and generally of doing and performing such acts and things as bodies corporate may by law do and perform, subject to the provisions of this Ordinance and any other law.

(2) In the case of works which at the commencement of this Ordinance are already in process of execution under any law existing before such commencement, but which under the provisions of this Ordinance require the consent of the Administrator, the consent of the Administrator to such works shall hereby be deemed to have been obtained and given.

**Areas of existing Municipalities.**

7. (a) The areas of jurisdiction of town councils constituted under the provisions of the last preceding section shall be the areas of municipalities as defined by law or proclamation at the commencement of this Ordinance; provided that the powers vested in the Administrator by section *nine* of this Ordinance may be applied in the case of any municipality for which a town council is constituted under the last preceding section.

**Outside Areas.**

(b) Any outside area held by a council for the purpose of native location, area for coloured persons, Asiatic bazaar, tramway, light or waterworks, cemetery, sewerage or drainage works or any other municipal undertaking shall (except it fall within another municipality) be under the control, jurisdiction and powers of the council but shall not form portion of the municipality, and to that extent shall be subject to the powers and provisions of this Ordinance and the by-laws thereunder.

**Members of Town Councils to remain in Office.**

8. The members of every council of a municipality mentioned in section *six* of this Ordinance and the mayor and deputy-mayor thereof shall continue in office under the provisions of the Municipal Elections Ordinance, 1927 or any amendment thereof, as if such council had not been reconstituted under the provisions of this Ordinance.

**Power of Administrator in regard to Municipalities.**

9. Subject to the provisions of this Ordinance, the Administrator may from time to time exercise all or any of the powers following; that is to say he may—

(1) (a) declare any town, village, or other area to be a municipality under the jurisdiction of a town council, and constitute for such municipality a town council to be elected in the manner provided by the Municipal Elections Ordinance, 1927 and any amendment thereof.

(b) Every town council so constituted shall under the name of the town council of ..... be a body corporate with perpetual succession and a common seal (with power to alter and change such seal from time to time), and shall by such name be capable in law of suing and being sued, of purchasing, holding, and alienating land, and generally of doing and performing such acts and things as bodies corporate may by law do and perform, subject to the provisions of this Ordinance and any other law:

(2) assign a name to such municipality;

(3) describe the boundaries thereof;

(4) unite any two or more townships, villages, municipalities, or areas under the jurisdiction of different classes of local authorities so as to form one municipality and determine any questions arising out of such uniting and make any order necessary to give effect to any agreement between any local authorities concerned as to the conditions under which such uniting shall be effected;

(5) alter and adjust the boundaries of adjoining municipalities, and determine any questions arising out of such alteration and adjustment;

(6) sever any portion of a municipality from the municipality of which it forms a part, and constitute the same a separate municipality or health committee area, or annex the same to any other municipality or health committee area, and from time to time make any apportionment of property rights and liabilities and give any directions as to any matters and things that may be necessary in order to do justice between the municipalities and health committees concerned;

(7) alter from time to time the boundaries of any municipality, and in cases where any area is to be excised from the municipality order the deletion as from the date of such excision from any voters' list of the names of voters residing or qualified in respect of any immovable property in such area;

(8) alter the name of any municipality;

(9) upon declaring any town or village or other area to be a municipality or upon the constitution of a health committee under Chapter IX of this Ordinance or upon the alteration of the boundaries of a municipality or health committee area exempt any part of the area of such municipality or health committee area from the provisions of the Local Authorities Rating Ordinance, 1933 and any amendment thereof and, thereafter, in whole or in part, withdraw such exemption;

(10) withdraw any exemption from rating whether such exemption was effected under this or under any other law;

(11) appoint any person or persons to inquire into and report upon the advisability of the exercise by the Administrator of any of the powers conferred on him by this section and may confer on such person or persons the powers, jurisdiction, and privileges of the Commissions Powers Ordinance, 1902; notice of such appointment and particulars of the power which the Administrator proposes to exercise shall be published at least once a week during three consecutive weeks in the *Provincial Gazette* and in a newspaper circulating in the neighbourhood where it is proposed to exercise such power or powers;

and, whenever one class of local authority is constituted under this Ordinance for any area in lieu of another class of local authority, or whenever a portion of a municipality is excised therefrom and a separate local authority is constituted therefor, the Administrator may make an order applying *mutatis mutandis* any provision of Part II of Chapter XI.

In the exercise of any of the powers hereunder conferred the Administrator may direct any municipal council concerned at its own expense to do or carry out any surveys that may be necessary within a period to be prescribed by him.

Should the council fail or neglect to carry out any directions given hereunder within the prescribed period the Administrator may cause the said surveys to be carried out at the cost of, and may recover the amount from the said council.

#### **How such Powers to be Exercised after Petition Presented.**

10. The Administrator may exercise any of the powers by this Chapter conferred after the presentation of such petition as is hereinafter described and after the publication, at least once a week, during three consecutive weeks of the substance and prayer of such petition, in the *Provincial Gazette* and in a newspaper circulating in the neighbourhood where it is proposed to exercise such powers, provided that such publication shall not be necessary when the Administrator shall have appointed any person or persons under the provisions of sub-section (II) of the last preceding section to inquire into the subject matter of any such petition and shall have notified such appointment and the subject of the inquiry in terms of that sub-section. It shall be in the discretion of the Administrator to refuse the prayer of any such petition or to grant the whole or any part thereof.

#### **How Petitions to be Signed.**

11. Every petition for the constitution of a town council under this Ordinance shall—

(1) if a municipality already exists for the area for which a town council is desired, be signed by not less than two-thirds of the members of the village council of such municipality;

(2) if no such municipality exists, be signed by not less than fifty persons entitled to vote for the election of members of the health committee for the area for which a town council is desired, or if a health committee, whose members are appointed by the Administrator, exists, or no health committee exists, then by fifty persons residing within such area and included on any register for the time being in force of persons qualified to vote at an election of members of the Provincial Council for the electoral division or divisions within which such area falls.

#### Particulars to be Stated in Petitions.

12. Every petition shall state precisely to what extent the exercise of the powers by this Chapter conferred upon the Administrator is desired by the petitioners, and shall pray for such specific exercise thereof, and may also pray for any partial exercise of such powers and every petition for the constitution of a municipality shall state the proposed boundaries thereof.

#### Petitions may be Opposed.

13. It shall be competent for any person or persons interested, within thirty days of the first publication in the *Provincial Gazette* of the substance and prayer of a petition as provided in section *ten*, or of the appointment of a commissioner or commissioners under sub-section (11) of section *nine* to present to the Administrator or to such commissioner or commissioners as the case may be, any counter-petition setting forth the grounds of opposition to the exercise by the Administrator of any of the powers conferred by this Chapter.

#### Notice to be given of Administrator's intention to Exercise Powers of his own accord.

14. The Administrator may from time to time exercise any of the powers conferred by this Chapter without the presentation of any petition, provided that unless a commission be appointed under the provisions of sub-section (11) of section *nine* before the exercise of any such power, notice be given once a week during three consecutive weeks in the *Provincial Gazette* and in a newspaper circulating in the neighbourhood where it is proposed to exercise such power or powers stating the intention of the Administrator to exercise such powers. If within thirty days after the date of the first publication of such notice or after due inquiry and report by a commission, if one be appointed, in the opinion of the Administrator no sufficient cause shall be shown why the power proposed to be exercised shall not be exercised, the Administrator may exercise such power.

#### Administrator's Expenses to be paid by Council applying for Exercise of Powers.

15. All expenses incurred by the Administrator in publication or in the appointment of a commission as a result of an application by any council for the exercise by him of any of the powers by this Chapter conferred shall be borne by the council concerned.

## CHAPTER II.

### MAYOR AND DEPUTY-MAYOR OF TOWN COUNCILS.

#### Election of Mayor.

16. (1) At the first ordinary meeting of the council held after the first election of councillors referred to in the Municipal Elections Ordinance, 1927, or any amendment thereof, and thereafter at the first meeting of the council held after every annual election of councillors, the councillors present shall elect one councillor to be mayor who shall be styled mayor of the municipality for which he is so elected, and who shall forthwith enter upon his office and continue therein until his successor be appointed after the next ensuing annual election of councillors, unless his office be sooner vacated; and at any election of mayor the chairman of the meeting, if a member of the council, shall have a deliberative vote only; provided that if the office of the outgoing mayor has been vacated by reason of the expiry of his period of office as councillor he shall nevertheless preside at the meeting until a mayor or deputy-mayor shall be elected; but the quorum required to be present at such meeting shall be deemed to be exclusive and not inclusive of such outgoing mayor who shall not be entitled to any vote. In case the election cannot be determined owing to the equality in the votes recorded for two or more candidates it shall be determined by lot by the chairman.

In the event of the office of mayor being vacated otherwise than by the expiry of the period for which he was elected as councillor, a successor shall, at the ordinary meeting next but one of the council held after the vacancy, be chosen by the councillors from amongst themselves, and such successor shall forthwith enter upon his office and serve as mayor for the remainder of the period for which the vacating mayor was elected; provided that if a mayor for any reason be not elected at a meeting as herein prescribed he may be elected at the first ordinary meeting of the council held thereafter or at a special meeting called for the purpose.

(2) If, however, it shall be so decided by the council at its last meeting before the annual election, the procedure in the election of mayor for the following twelve months shall be as follows:—

(a) Within fourteen days after the first election of councillors under the Municipal Elections Ordinance, 1927, or any amendment thereof (hereinafter in this section referred to as the Elections Ordinance), and thereafter within fourteen days after the annual election of councillors, a mayor shall be elected by the registered voters on the municipal roll.

(b) Such election shall be conducted *mutatis mutandis* in accordance with the provisions of the Elections Ordinance.

(c) Candidates for mayor shall be nominated in manner prescribed in the next paragraph from amongst the councillors within three days after the annual election.

(d) A requisition as prescribed in section *thirty-one* of the Elections Ordinance and signed by not less than twenty-five registered voters of the municipality shall be sent to the town clerk within the time prescribed by paragraph (c) of this section together with a acceptance thereof by the candidate. If only one councillor be requisitioned he shall be declared by the town clerk to be duly elected and shall thereupon assume office as mayor, and if more than one councillor be duly requisitioned, then an election shall take place as provided in paragraph (b) of this sub-section.

(e) It shall be unlawful for any candidate for nomination or for election for the office of mayor to employ agents or canvassers, or to hold meetings or to advertise or in any way to solicit votes or support, and contravention of any of these provisions will invalidate the election of such candidate.

#### **Election and Duties of Deputy-Mayor.**

17. (1) At the first meeting of the council held after every annual election of councillors the councillors present shall elect one councillor to be deputy-mayor, who shall continue in his office until his successor shall be appointed after the next ensuing annual election of councillors unless his office be sooner vacated, in which event a successor shall at the meeting next but one of the council held after the vacancy be chosen by the councillors from amongst themselves, and such successor shall serve as deputy-mayor for the remainder of the period for which the vacating deputy-mayor was elected; provided that if a deputy-mayor for any reason be not elected at a meeting as herein prescribed he may be elected at the first ordinary meeting of the council held thereafter or at a special meeting called for the purpose.

(2) The deputy-mayor shall, whenever it shall be necessary owing to the death, resignation, absence, illness, or incapacity of the mayor do all acts which the mayor as such may do. The fact of the death, resignation, absence, illness, or incapacity of the mayor shall be notified by the town clerk or his deputy at the first meeting of the council held after such death, resignation, absence, illness, or incapacity has happened or commenced, and be recorded in the council's minutes. The record shall be sufficient authority for all acts done by the deputy-mayor, which the mayor as such may do, from the date of the death or resignation or the commencement of the absence, illness, or incapacity of the mayor until a new mayor be appointed or the mayor resume his duties.

#### **Chairman of Meeting.**

18. At every meeting of the council, the mayor, if present, shall preside and in the event of his absence, the deputy-mayor, and if neither a mayor or deputy-mayor be present at any meeting then the councillors present shall elect from among themselves a chairman to preside at such meeting, and if it shall appear at such meeting that the mayor and the deputy-mayor are both absent from the municipality or are for any other reason incapable of acting, the council may by resolution confer on the chairman so elected full authority to do all acts which the mayor as such may do, until either the mayor or deputy-mayor is again able to act.

#### **Mayor's Allowances.**

19. (1) The council may vote to the mayor out of its revenue such sum as it may consider sufficient as an allowance for general purposes having regard to the circumstances. The amount of such allowance shall be fixed at the commencement of the mayor's term of office, shall be payable monthly, and shall not be altered either by way of increase or decrease during the said term of office; and such allowance shall not be deemed to fall within the provisions of Chapter IV of this Ordinance. The expenditure of such allowance shall be accounted for to the finance committee but shall not be subject to any other audit.

(2) The council may also grant as a personal allowance payable monthly to the mayor, an amount in the aggregate not exceeding one-third of the allowance fixed under subsection (1) of this section. The said personal allowance shall not be deemed to fall within the provisions of Chapter IV of this

Ordinance. The expenditure of such allowance shall not be subject to any audit, the mayor's signature therefor being sufficient.

(3) Whenever the duties of the office of mayor are performed, for any continuous period not being less than one month, by the deputy-mayor under any of the circumstances mentioned in sub-section (2) of section *seventeen* the allowances under this section shall be paid for such period to such deputy-mayor.

(4) The council may subject to the approval of the Administrator also vote out of the revenue of the council to councillors such allowance as it may determine. The expenditure of such allowance shall not be deemed to fall within the provisions of Chapter IV of this Ordinance.

### CHAPTER III,

#### MEETINGS AND PROCEEDINGS OF MUNICIPAL COUNCILS.

##### Meetings of Council.

20. The council shall hold an ordinary meeting for the dispatch of business as often as may be necessary but not less than once in every month.

##### Special Meetings.

21. The mayor may at any time and shall, at the request in writing of not less than one-third of the members of the council, or where the council consists of more than eighteen members at the request in writing of not less than six members call a special meeting of the council; provided that the notice of any special meeting shall be in writing and shall specify the object of the meeting.

##### Notices of Meetings.

22. Notice of the time and place of every meeting of the council shall be served on every councillor either personally or by leaving the same at his usual place of abode or place of business twenty-four hours at least before such meeting. Such notice shall be signed by the mayor or by the town clerk. The accidental omission to serve on any councillor such notice as is referred to in this section shall not affect the validity of any meeting.

##### Meetings of Council open to the Public.

23. Every meeting of the council shall be open to the public and the press; provided that this section shall not apply to any committee of the council or to a committee of the whole council; provided, further, that where such committee is dealing with an application for a licence or the renewal thereof under the provisions of Chapter VII of this Ordinance, the proceedings of such committee shall, in its discretion, be open to the public and the press.

##### Quorum.

24. Save as is otherwise specially provided in this Ordinance, all acts, matters or things authorized or required to be done by the council and all questions that may come before it shall be done and decided by the majority of the councillors present at any meeting at which are present not less than one-half of the councillors or such larger proportion thereof as the council may from time to time fix.

##### Casting Vote of Chairman.

25. Save as is provided in section *sixteen* hereof, in case of the equality of votes the chairman of the meeting shall have a second or casting vote.

##### Adjournment of Meetings.

26. The councillors present at any meeting may from time to time adjourn such meeting, and if at any meeting a sufficient number of councillors be not present to exercise the powers vested in the council, the members present or if there be no members present, the town clerk shall adjourn the meeting and may appoint for the adjourned meeting such day and hour as may be thought convenient. Notice of such adjourned meeting shall be given as provided in section *twenty-two*.

##### Minutes.

27. The minutes of the proceedings of every meeting of the council and any committee thereof shall be regularly entered in books kept for that purpose and shall be confirmed at the same or next succeeding ordinary meeting and be signed by the chairman. Every such minute so entered when signed by a councillor describing himself as or appearing to be chairman of the meeting at which the minute is confirmed shall in the absence of proof of error therein be deemed a correct record of the proceedings of the meeting of which it purports to be a minute. The minutes shall be kept in custody and control of the town clerk.



**Committees.**

28. (1) The council may appoint out of its own body such and so many committees, either of a general or special nature, and constitute them of such number of councillors as it may think fit, for any purpose which in its judgement would be better managed by means of a committee, and subject to the provisions of the next succeeding section may delegate to any such committee with or without restrictions or conditions as it may think fit any of its powers or duties except any power of raising money by rate or loan or any other power as to the exercise of which special provision is made in this Ordinance and may fix the quorum of any such committee. The mayor shall be *ex officio* a member of every such committee.

(2) Each committee shall report its proceedings to the council, but to the extent to which the council so directs the acts and proceedings of the committee shall not require the approval of the council.

(3) Each committee shall elect its own chairman and may also elect a vice-chairman.

(4) Every committee appointed by the council may be dissolved after notice of motion to that effect by the vote of a majority of the whole council.

(5) Every councillor shall be elected by the council to serve on at least one committee.

**Finance Committee.**

29. The council shall from time to time appoint a finance committee for regulating and controlling the finances of the council.

No expenditure shall be incurred unless provision has been made therefor on a detailed estimate submitted by the finance committee and approved by the council and every payment from the funds of the council shall be made by the finance committee who shall not less than once in every three months submit at an ordinary meeting of the council for its information a schedule of all payments made.

**Meetings of Committees.**

30. Every committee appointed by the council may meet from time to time, and may adjourn from place to place, as it may think proper, and no business shall be transacted at any meeting of the committee unless the quorum of members (if any) fixed by the council, or if no quorum be fixed, two members be present. At all meetings of the committee the chairman, if present, shall preside and in the event of his absence the vice-chairman, if any, and if neither chairman nor vice-chairman be present one of the members present shall be appointed to take the chair and all questions shall be determined by a majority of votes of the members present, and, in the event of an equal division of votes, the member occupying the chair shall have a second or casting vote.

**Absence of Councillors from Meetings.**

31. Any councillor who, without having first obtained leave from the council, shall otherwise than in circumstances beyond his control fail to attend three consecutive ordinary meetings of the council and any member (other than the *ex officio* member) of the finance or any other standing committee appointed by the council who without first having obtained leave either from the council or the committee shall fail to attend three consecutive ordinary meetings of the committee shall become disqualified from continuing to be a councillor. The town clerk shall at the next ordinary meeting of the council after any such continued absence of a councillor report the same, and the mayor shall thereupon declare the seat of such councillor vacant unless the council is satisfied that such absence was due to circumstances beyond such councillor's control.

**Meetings to be deemed duly held.**

32. Until the contrary is proved, whenever a minute of the proceedings of a meeting has been entered and signed, such meeting shall be deemed to have been duly convened and held, and all the councillors at the meeting shall be deemed to have been duly qualified, and in the case of proceedings so recorded of a committee, the committee shall be deemed to have been duly constituted and to have had power to deal with the matter referred to in the minutes.

**Minutes of Proceedings and Treasure's Accounts open to Inspection.**

33. (1) The minutes of proceedings of the council shall at all reasonable times be open to the inspection of any inhabitant of the municipality who may obtain a copy thereof or an extract therefrom on payment of the fee (if any) prescribed by resolution of the council and such copy or extract certified by the town clerk as correct shall on production be admissible in evidence in any legal proceedings.

(2) The accounts of the council shall be open to the inspection of any councillor, who may make a copy thereof or an extract therefrom.

(3) The annual statement or abstract of the council's accounts and copies of the auditor's report thereon shall be delivered to any inhabitant of the municipi-

pality on application and on payment of the fee, if any, prescribed by resolution of the council.

(4) The fee prescribed by the council either under sub-section (1) or sub-section (3) of this section shall not exceed two shillings and sixpence per folio of 150 words.

**Power to enter into Contracts.**

34. The council may enter into contracts for the purpose of any work or service which it is itself by this Ordinance or by any proclamation issued thereunder empowered to undertake or carry out; provided that the council shall not exempt the party or parties with whom it is contracting from the operation of any by-laws or regulations, but shall on the contrary stipulate that the party or parties with whom it is contracting shall within the municipality be subject in the carrying out of the contract, to all by-laws and regulations; provided further that the council may by resolution authorize any of its officers to sign on behalf of the council contracts of such nature or description as shall be specified in the council's by-laws.

All such contracts lawfully made shall be valid and binding on the council and its successor and all other parties thereto; their successors, heirs, or legal representatives (as the case may be).

**Contracts for Execution of Work or Supply of Goods.**

35. (1) Except in cases of emergency or in special cases of necessity approved by the finance committee before any contract for the execution of any work or furnishing of any goods to the value or amount of one hundred pounds or upwards is entered into by the council, twenty-one days' clear notice at the least shall be given in a newspaper circulating in the municipality, or, if there be no such newspaper, then by affixing outside the principal door of the municipal offices and in two or more other conspicuous places within the municipality, a notice expressing the purpose of such contract and inviting any person willing to undertake the same to make proposals for that purpose to the council.

(2) The council shall not consider such proposals or conclude the contract until full and identical particulars have been supplied to every person applying to the council therefor within three days after the said notice was first published or affixed. Such particulars shall be supplied to the applicants by the council within ten days after the notice was first published or affixed.

(3) The council or the committee thereof duly authorized by the council shall accept the proposal which having regard to all the circumstances appears to them to be most advantageous, and may take security for the due and faithful performance of every such contract or the council may decline to accept any proposal. Notification of any proposal accepted hereunder shall be published by the town clerk by means of a notice affixed to the council's notice board.

(4) Where such contracts are entered into to the value or amount of one hundred pounds or upwards without being put up to public tender the reasons shall be stated by the finance committee in a report to be read out to the council before the resolution to make such contract has been passed, and such report shall be attached to the resolution and entered in the minutes of the council.

(5) Nothing in this section shall apply to any contract for the purchase by the council of produce or other perishable goods bought on a public market or to any purchase entered into by the council as the result of bidding at a public auction.

**Provisions as to Arbitration.**

36. Save as is otherwise in this Ordinance or the Municipalities Powers of Expropriation Ordinance, 1903, expressly provided, the Arbitration Ordinance, 1904, or any amendment thereof shall *mutatis mutandis* apply to any arbitration in which the council is concerned.

**Authentication and Execution of Documents.**

37. (1) Every order notice or other document requiring authentication by the council shall be sufficiently authenticated, if signed by two councillors or by the town clerk or by a duly authorised officer of the Council; such authority being conferred by resolution of the Council or by a by-law or regulation.

(2) Every contract and all instruments and documents which the council is lawfully empowered to execute shall be deemed to be duly executed by or on behalf of the council, if signed by the mayor or deputy-mayor of the municipality or by any one or more councillors or by the town clerk, provided that the person signing such document shall be duly authorized therein by resolution of the council.

**Validity of Council's Proceedings notwithstanding certain Defects in Election or Appointment.**

38. All proceedings of the council or acts of any person acting as mayor,

deputy-mayor, councillor, or town clerk (as the case may be) shall, notwithstanding that it be discovered that there was some defect in the election or appointment of the person so acting or that he was disqualified, be as valid and effectual as if the person had been duly elected or appointed and qualified.

## CHAPTER IV.

## CONDUCT OF MEMBERS AND SERVANTS OF MUNICIPAL COUNCILS.

**Prohibition of Councillors, their Partners, Employers or Employees acting for or against Council in Professional Capacity for Reward.**

39. (1) No councillor or his partner or the spouse of any such person or his employer or employee shall act for reward as an advocate, attorney, notary, conveyancer or law agent either on behalf of or against the council, and no councillor or his partner or his employer or employee or the spouse of any such person shall act for the council for reward as medical practitioner, veterinary surgeon, architect, engineer, surveyor, accountant, auctioneer, valuer or appraiser, or in any other professional capacity; provided that nothing in this section shall apply to the payment to any medical practitioner of such fee as is prescribed by law, regulation or by-law for the rendering to the council of a certificate of notification of any case of infectious disease, and provided further that a medical practitioner may act for the council if requested so to do by a majority of two-thirds of the council and with the consent of the Administrator.

(2) Any person contravening this section shall be guilty of an offence and liable on conviction to a fine not exceeding fifty pounds, and the court before which he is convicted may, if he be a councillor, order that he shall refund to the council the amount of any fees received by him in respect of his acting as aforesaid and that he shall vacate his seat, and his seat shall thereupon become vacant.

**Provisions as to Councillors being Interested in Contracts with the Council.**

\*40. (1) The provisions of this section shall apply to all town councils.

(2) No councillor or his spouse shall either on his own behalf or on behalf of his spouse or on behalf of a partnership in which he or his spouse is interested contract with the council for the performance by the council or such councillor or his spouse or partnership of any work or as vendor, purchaser, or otherwise, and any contract or bargain entered into by or on behalf of the council in which a councillor has any direct or indirect pecuniary interest shall be null and void, and any sub-contract or subsequent bargain entered into by any councillor or in which he has any pecuniary interest in respect of work to be done or goods to be supplied or property to be transferred under any contract entered into by the council shall also be null and void; provided that no contract or bargain shall be avoided or set aside under the provisions of this sub-section where a councillor is merely interested in such contract or bargain as shareholder, holding either in his own name or jointly with his spouse or after his shares and those of his spouse have been added together, not more than thirty-three and one-third per cent. of the shares in a company having a share capital or where the contract is for the supply by the council of any thing or the rendering by it of any service at the ordinary published charges for such supply or service or where a councillor purchases—

(a) land sold by the council under the authority of the Administrator either by public auction or by private treaty at an upset price covered by such authority; or

(b) goods disposed of by the council by public auction; or where a councillor is a member of a sporting club contracting with the council, such club not being formed for the purpose of gain or profit and provided, further, that the Administrator may, in his discretion approve any contract and any contract so approved shall not be subject to the provisions of this sub-section.

(3) Any person who contravenes this section shall be liable on conviction to a fine not exceeding fifty pounds, and in default of payment to imprisonment with or without hard labour for a period not exceeding three months. The court before which he is convicted may order that he shall account to the council for any profits which may accrue to him in respect of such contract or bargain and that he shall vacate his seat, and if he be a councillor his seat shall be thereupon become vacant.

(4) It shall be the duty of the auditor of the accounts of the council appointed by the Administrator under section *fifty-nine* of this Ordinance to examine from time to time the records of the council for the purpose of ascertaining whether the provisions of this section have been complied with, and to report to the Administrator any cases in which it shall appear to him that there has been any failure to comply with such provisions.

\* As amended by section *one* of Ordinance No. 12 of 1941.

**Councillors Contracting.**

\*41. (1) The provisions of this section shall apply to all village councils and health committees.

(2) Save as in section *thirty nine* of this Ordinance and in sections *five* and *six* of the Municipal Elections Ordinance, 1927 and any amendment thereof provided, no councillor shall be prohibited by reason of his office from contracting with the council either as vendor purchaser or otherwise nor shall any contract or bargain entered into by or on behalf of the council or any sub-contract or subsequent bargain in connection with any such contract in which any councillor shall be in any way directly or indirectly interested be on such account avoided or set aside nor shall any councillor so contracting or being so interested be liable save in the case hereinafter mentioned to account to the council for any profit realized by any such contract or bargain by reason of such councillor holding his office or by reason of the fiduciary relation thereby established.

(3) Where any councillor has any pecuniary interest otherwise than as a shareholder holding either in his own name or jointly with his spouse or after his shares and those of this spouse have been added together, not more than thirty-three and one-third per cent. of the shares in a limited liability company in any contract or bargain with the council or sub-contract or subsequent bargain in connection with any such contract or bargain which involves according to the terms thereof the expenditure or receipt by the council of one hundred pounds or more it shall be the duty of such councillor before or at the meeting of the council at which such contract or bargain is determined on or approved if his interest then exists or if his interest is subsequently acquired then within a reasonable time and in any case not later than one month after the acquisition of such interest to disclose the same to the council and such disclosure if not made at a meeting of the council may be made by letter addressed to the town clerk which shall be reported by him to the council at the first meeting held after the receipt of such letter and any such disclosure shall be entered on the minutes of the meeting of the council at which the same is made by the councillor or reported by the town clerk; provided however that it shall not be necessary for any such disclosure to be made

(a) by any councillor in the case of any contract or bargain which the council may expressly authorize to be entered into with such councillor in his own name; or

(b) by any councillor who shall have notified in writing to the town clerk subsequent to his last election as councillor that he has any interest in any firm or partnership in the case of any contract or bargain which the council may expressly authorize to be entered into with such firm or partnership.

(4) Any councillor who contravenes this section by omitting to disclose his interest in any contract or bargain with the council or sub-contract or subsequent bargain as hereby required shall be liable on conviction to a fine not exceeding fifty pounds and in default of payment to imprisonment with or without hard labour for a period not exceeding three months and the court before which he is convicted may order that he shall account to the council for any profits which may accrue to him in respect of such contract or bargain, and that he shall vacate his seat and his seat shall thereupon become vacant; provided, however, that if it be proved by such councillor that his omission to make such disclosure was due to illness, absence from the municipality, mistake, inadvertency or some such like cause and was not due to any want of good faith, he shall be deemed not to have contravened this section.

(5) It shall be the duty of the town treasurer or if there be no town treasurer of the town clerk to prepare every month according to the best information which he is able to obtain a statement showing all the contracts or bargains entered into or authorized by the council during the preceding month in which any councillor has a pecuniary interest otherwise than as a shareholder holding either in his own name or jointly with his spouse or after his shares and those of his spouse have been added together not more than thirty-three and one-third per cent. of the shares in a limited liability company and the names of the councillors so interested and to lay such statement before the council at the first meeting held after the same has been prepared and such statement shall be included in the minutes of such meeting.

(6) It shall be the duty of the auditor of the accounts of the council appointed by the Administrator to examine from time to time the records of the council for the purpose of ascertaining whether the provisions of this section have been complied with and to report to the Administrator any cases in which it shall appear to him that there has been any failure to comply with such provisions.

\* As amended by section *two* of Ordinance No. 12 of 1941.

**Councillor not to Speak or Vote where he or his Partner has Pecuniary Interest.**

\*42. (1) A councillor shall not in or before the council or any committee thereof be present at or take part in the discussion of or vote upon any expropriation or purchase of land by the council, claim, application for licence, arrangement, business transaction, negotiation, plan of building, scheme, matter, or legal proceedings in which he, his spouse, his partner, or any person by whom he or his spouse or his partner is employed, or whose attorney or agent he or his spouse or his partner is, has directly or indirectly any pecuniary interest other than as a shareholder holding either in his own name or jointly with his spouse or after his shares and those of his spouse have been added together not more than thirty-three and one-third per cent of the shares in a company having a share capital.

Any councillor contravening the provisions of this sub-section shall be liable on conviction to a fine not exceeding fifty pounds, and the court before which he is convicted may order that he shall vacate his seat, and his seat shall thereupon become vacant; provided that if it be proved by such councillor that the act or acts with which he is charged arose from mistake or inadvertency and not from any want of good faith, he shall be deemed not to have contravened this section.

(2) Notwithstanding anything in this Ordinance contained no councillor shall be prohibited from voting upon or discussing in or before the council or any committee thereof

- (i) any scheme for the imposition of special rates, or
- (ii) the tariff charges for, or the regulations and conditions generally applicable to the supply by the council of anything, or the rendering by the council of any service whether in the whole municipality or any portion thereof.

**Councillor not to Act as Agent before Court or Committee appointed by Council.**

43. A councillor shall not by himself or his spouse or his partner or employee act as agent or representative of any other person—

- (a) before any valuation court appointed by the council under the Local Authorities Rating Ordinance, 1933, or any amendment thereof; or
- (b) before any other court or committee appointed by the council to deal with the rating of property by way of special assessment or otherwise; or
- (c) before any committee of the council appointed to consider or deal with applications for any licence or certificate which the council has power to grant or issue.

Any councillor contravening this section shall upon conviction vacate his seat, and be liable to a fine not exceeding fifty pounds.

**Disqualification where Seat is Vacated.**

44. Any councillor who is required to vacate his seat under any of the provisions of this charter shall not be capable for a period of three years thereafter of being elected a councillor for any municipality, or of sitting on any valuation or licencing court constituted under any Ordinance in force in this Province.

**Penalty on Members and Officials for receiving Bribes and on Persons Bribing or Attempting to Bribe Members and Officials.**

45. (1) Any councillor, or any officer, or servant of the council or any person carrying out on behalf of the council any statutory power or duty 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 doing or forbearing to do anything in respect of any matter whatsoever or transaction (actual or proposed) in which the council is concerned, shall be guilty of an offence and liable on conviction to a fine not exceeding five hundred pounds or to imprisonment with or without hard labour for a period not exceeding five years and in addition, in the case of any such officer or servant to dismissal from office, and to forfeiture of any claim to compensation or pension to which he might otherwise have been entitled, and in the case of a councillor, he shall be disqualified from continuing a councillor or being elected or appointed 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 councillor or to any officer or servant of the council or to any person carrying out on behalf of the council any statutory power or duty, any fee, advantage, or reward whether for the benefit of such councillor, officer, or servant, or of another person as an inducement to or in consideration of or otherwise on account of such councillor, officer, or servant doing or forbearing to do anything in respect of any matter or transaction (actual or proposed) in which the council is concerned shall be guilty of an offence and liable on conviction to a

\* As amended by section three of Ordinance No. 12 of 1941.

fine not exceeding six hundred pounds or to imprisonment with or without hard labour for a period not exceeding seven years, or to both such a fine and imprisonment.

**No Officer or Servant of Council to be Interested in any Bargain or Contract of the Council.**

46. (1) No officer or servant of the council shall in any wise be concerned or interested in any bargain, contract, or arrangement whatsoever made by or with the council. If any such officer or servant is so concerned or interested or, under cover of his office or employment, exacts or accepts any promise, fee, or reward whatsoever other than his proper salary, wages, and allowances, he shall be incapable of afterwards holding or continuing in any office or employment under this Ordinance and shall be liable to a fine not exceeding fifty pounds. Any profits, fee, or reward, which may have accrued to such officer or servant or which may accrue to him by reason of such bargain, contract, or arrangement, may be recovered by the council before any court of competent jurisdiction.

(2) Nothing in this section shall apply to any contract for the supply by the council of anything or the rendering by it of any service at the ordinary published charges for such supply or service, nor to the purchase of property or goods disposed of by the council by public auction nor to any purchase or lease of land and/or buildings nor to the erection of a dwelling or the making of an advance of money for the purposes of erecting a dwelling under and in terms of the Housing Act, 1920, or section *seventy-nine* (28) of this Ordinance, provided that the conditions of such purchase, lease, erection, or advance shall be subject to the consent of the Administrator.

**Exemption of Servants and Members of Council from Personal Liability.**

47. No matter or thing done or omitted, and no contract entered into by the council, and no matter or thing done or omitted by any councillor or officer or servant of the council or other person acting under the direction of the council shall, if the matter or thing were done or omitted or the contract was entered into in good faith for the purposes of this Ordinance or of any by-law or regulation in force in the municipality, subject any such person personally to any action, liability, claim, or demand whatsoever; and any expense incurred by the council or any such person as aforesaid shall be paid by the council out of its revenues; provided that nothing in this section shall exempt any such councillor, officer, or servant or other person aforesaid from liability to be surcharged with the amount of any payment which may be disallowed by the auditor, appointed by the Administrator under section *fifty-nine* of this Ordinance in the accounts of the council and which such councillor authorized or joined in authorizing.

CHAPTER V.

FINANCIAL.

PART I.—REVENUES AND BORROWING POWERS.

**Revenue of Council.**

48. The revenue of the council shall consist of—

- (a) all rates and taxes levied by the council;
- (b) all fines imposed by a competent court and forfeited bail bonds for the contravention of by-laws, regulations, or the provisions of this Ordinance;
- (c) all fees and duties imposed by the council and licence moneys on licences issued by the council and all market dues, tolls, rents, pound fees, and taxes on dogs chargeable or leviable by the council;
- (d) all charges made by the council for the supply of electricity, gas, water, tramway, bus, and sanitary services, and also all charges or profits arising from any trade, service, or undertaking carried on by the council under any powers vested in it;
- (e) all other fees moneys or charges recoverable by the council or to which the council is entitled under this Ordinance or any other law.

**Recovery of Sanitary Rates.**

\*49. (1) All moneys due for sanitary services and water, where waterborne sewerage has been installed, shall be recoverable from the owner and occupier jointly and severally of the premises in respect of which the services were rendered, provided that the owner shall in the absence of any agreement to the contrary, be entitled to recover from the occupier of the said premises for the time being any such charges paid by him in respect of the occupation of such occupier.

(2) When any charges due in respect of any premises for sanitary services and water, where waterborne sewerage has been installed, shall remain unpaid

\* As amended by section four of Ordinance No. 12 of 1941.

for a period of six weeks after the date on which written notice shall have been given by the council to the owner or occupier of his indebtedness, the council may proceed jointly and severally against the owner and occupier for the time being of such premises for the amount of such charges or any part thereof, and may recover the same from such owner or occupier; provided that every such occupier shall be entitled to deduct from any rent or other amount payable by him to the owner of the premises any portion of such charges paid by or recovered from him under this sub-section which the owner could not lawfully have required him to pay and the production of the receipts for such portion of such charges so paid or recovered from such occupier shall be a good and sufficient discharge for the amount so paid or recovered as payment of rent or other amount.

(3) The council may charge and recover interest on arrear charges for sanitary services and water, where waterborne sewerage has been installed, at a rate not exceeding seven per centum per annum.

#### **Payment of Rates, Taxes and other Charges before transfer of Premises.**

50. (1) No transfer of any premises or of any interest in land as defined by the Local Authorities Rating Ordinance, 1933, or any amendment thereof within a municipality shall be passed or registered before any registration officer until a written statement in the form shown in the Third Schedule to this Ordinance and signed and certified by the town clerk or other officer authorized thereto by the council, shall be produced to such registration officer, nor unless such statement shows—

(a) that all charges for a period of two years immediately preceding the date of application for transfer due in respect of such premises or interest in land for sanitary services and lawfully made under this Ordinance or any duly authorised by-laws or regulations; and

(b) that all charges, if any, for a period of two years immediately preceding the date of application for transfer due in respect of such premises or interest in land on account of rates or taxes imposed under the Local Authorities Rating Ordinance, 1933, or any amendment thereof or under any prior Ordinance or for erf tax; and

(c) that all sums, if any, due on account of any expenses incurred or advances made by the council to the owner of such premises or interest in land under the provisions of sub-section (4) of section *eighty-one*, sub-section (4) of section *eighty-three* and sub-section (1) of section *one hundred and forty-two* of this Ordinance.

have been paid to the council, provided that in the case of transfer of immovable property by a trustee in insolvency the provisions of this section shall be read subject to the provisions of section *eighty-nine* of the Insolvency Act, No. 24 of 1936, and the latter provisions shall apply; provided further that nothing in this section contained shall be held to apply to advances made for the purchase of electric or gas stoves, refrigerators, wireless sets and articles of a like nature which are in practice not regarded as fixtures.

The town clerk or other officer authorized by the council is hereby required to give the said statement on the demand of the owner of the premises or interest in land or his attorney or agent upon payment by him of a charge to be fixed by resolution of the council not exceeding two shillings for each such statement.

(2) (a) All such charges and sums mentioned in paragraphs (a) and (b) of sub-section (1) shall be a charge upon the premises or interest in land in respect of which they are owing and shall be preferent to any mortgage bond passed over such property subsequent to the coming into operation of this Ordinance.

(b) All such charges and sums mentioned in paragraph (b) of sub-section (1) of section *one hundred and forty-two* shall be a charge on the premises or interest in land in respect of which they are owing and shall, subject to compliance with the provisions of sub-section (6) of that section be preferent to any mortgage bond passed over such property subsequent to the coming into operation of this Ordinance.

#### **Books of Council be prima facie evidence of sums due.**

51. The books and records of the council and any extracts therefrom certified by the town clerk or other officer authorized thereto by the council shall in any proceedings for the recovery of sanitary fees or charges for the supply of gas, water, or electricity, or for any other municipal service be *prima facie* evidence of the amounts due for the same.

#### **Borrowing Powers.**

\*52. (1) (a) The council may by a majority of the councillors present at a meeting specially convened for the purpose (provided the number of members voting in the majority is equal to a majority of the full council) from time to time raise loans, other than short-period loans or loans at call, in such

\* As amended by section *one* of Ordinance No. 19 of 1943.

amounts and on such conditions as may be approved by the Administrator subject to the provisions of this Ordinance.

(b) Any council whose annual rate income exceeds £500,000 may in addition to obtaining advances from any bank by way of bank overdraft from time to time obtain short-period loans including loans at call in such amounts and on such conditions as the Administrator may approve either from a bank or from any other person for the purpose of temporarily financing—

(i) loan expenditure in respect of which borrowing powers have been duly authorised;

(ii) expenditure on revenue account incurred for the purpose of defraying expenses pending the receipt of revenues receivable by the council in respect of the period of account in which those expenses are chargeable and taken into account in the estimates made by the council for that period.

(c) A council may by a majority of the councillors present at a meeting specially convened for the purpose (provided the number of members voting in the majority is equal to a majority of the full council) from time to time raise loans other than short-period loans or loans at call, for the purpose of repaying existing loans, other than short-period loans or loans at call; provided that—

(i) the amount of a loan so raised shall not exceed the amount of the original loan;

(ii) the period of a loan so raised shall not be longer than the unexpired portion of the period fixed for the redemption of the original loan.

(2) Such loan shall be secured and charged on the whole of the land, rents, property, and revenues of the council, including any lands which may be specially placed at the disposal of the council under the provisions of any law and including all rates which the council may impose under the provisions of any law for the time being in force; provided that this section shall not be deemed to confer upon the council any power to alienate such lands other than is conferred by such law.

(3) Where any such loan shall be raised by means of stock the provisions of Ordinance No. 3 of 1903 except section *fifty-one* thereof shall *mutatis mutandis* apply.

(4) If at any time any interest due on any loan (other than stock) shall remain unpaid for ninety days after demand therefor in writing has been lodged with the town clerk by the person entitled thereto or by his duly authorized representative, application may be made by such person or his representative to any competent court for the appointment of a receiver of the property and revenues on which the loan is secured.

(5) On the hearing of such application the court may make such order and give such directions as under the circumstances shall seem expedient for raising and payment of the moneys due. In particular the court may order that a rate or rates of such amount or amounts as it may fix be levied upon all rateable property within the municipality, and any rate so ordered to be levied shall have the same incidence as any rate imposed by the council, and may be enforced in like manner, and the proceeds thereof shall be paid into court or otherwise as the court shall direct.

(6) If at any time default be made in the repayment of any loan or of any instalment thereof after a period of thirty days from the date on which such loan or instalment shall have become repayable the like proceedings may be instituted on the application of the person to whom such repayment shall be due or his duly authorized representative.

(7) The court, on such application in addition to any order which it is empowered to make under sub-section (5) may, if it shall think fit, order the sale of any property on which the loan may be secured, subject always to the provisions of any law as regards the alienation of any lands vested in the council under such law.

(8) Notwithstanding anything to the contrary contained in sub-section (17) of section *fifty-one* of Ordinance No. 3 of 1903 the security for bills issued under the provisions of that Ordinance shall be the security provided for by sub-section (2) of this section.

(9) Notwithstanding anything contained in this section Ordinance No. 3 of 1903 [as amended] shall continue to apply to the municipality of Johannesburg, and it shall not be lawful for the council of that municipality to borrow money by means of stock or bills except in manner provided by that Ordinance.

(10) Subject to the provisions of this section and subject to any rights of priority existing at the date of coming into operation of this sub-section all securities for loans created by a local authority whether under this Ordinance or any other law shall rank equally without any priority.

#### Overdrafts.

53. The council may obtain advances from any bank by way of overdraft in such amounts and on such conditions as the Administrator may approve; and



the provisions of the last preceding section for the security of such advances and for the recovery thereof shall apply in all respects as if such advances were loans raised under the last preceding section.

#### **Illegal Borrowing.**

54. Save when any loan or advance by way of overdraft has been authorized as aforesaid, no person or bank lending money to a council shall have any remedy or right whatsoever to recover such loan or advance from the council. If a council borrows any money which it is not legally bound to repay, all the members who have joined in authorizing the borrowing of such money shall be jointly and severally liable to repay the sum and all interest thereon, and the same may be recovered from them by action in any competent court.

#### **Depreciation Regulations.**

55. (1) It shall be the duty of the council to frame regulations providing for the annual setting aside by the council of adequate amounts to meet the depreciation of works and plant purchased from any loans raised under the provisions of section *fifty-two* or *fifty-three* hereof and to submit such regulations for the approval of the Administrator who may approve the same with or without modification and such regulations when approved shall be published in the *Provincial Gazette*; provided, however, that if the council shall fail to frame such regulations and to submit the same for the approval of the Administrator within a period of twelve months from the date on which the Administrator shall require the council to frame the regulations under this section, such regulations may be made by the Administrator.

(2) The council shall set aside annually out of its revenue such amounts for depreciation as are required under regulations made under this section.

(3) It shall be the duty of the town treasurer or officer of the council entrusted with the duties of treasurer to compile records of all the movable assets and plant of the council and to keep such records up to date.

### **PART II.—ACCOUNTS AND AUDIT.**

#### **Accounts to be Kept.**

56. The council shall cause proper books to be provided and true and regular accounts to be entered therein of all sums of money received and paid on account of and for the council, and of the several purposes for which such sums of money have been received and paid.

#### **Financial Year.**

57. The accounts of the council shall be made up and an abstract thereof published not less than once in every financial year, and for the purposes of this Ordinance the financial year shall be the twelve months ending on and including the thirtieth day of June in each and every calendar year.

#### **Council to frame Annual Estimates.**

58. Not less than fourteen days before the expiry of any financial year the finance committee shall draw up and present at any ordinary or special meeting of the council a detailed estimate of the revenue and expenditure of the council for the next financial year. A copy of such statement shall be recorded in the minutes of the council.

#### **Administrator to appoint Inspectors and Auditors.**

59. (1) The Administrator shall appoint one or more persons, who may be officers of the public service, to examine, from time to time, the accounts and records of the council and the council shall, by the town clerk or town treasurer or other officer authorised by such council produce and lay before the person or persons so appointed all books and statements of accounts and balance sheets of the council prepared by the said town clerk or town treasurer or other authorised officer together with all vouchers in support of the same and all books, papers and writings and minute books in their power relating thereto, but these may at no time be removed from the office of the council without the express sanction thereof.

\* (1) *bis*. The council shall not later than the thirty-first day of August in each year or such other date as may be approved by the Administrator cause the accounts of the council to be balanced to the thirtieth day of June immediately preceding such first-mentioned date.

(2) The council may submit a recommendation to the Administrator in regard to the person or persons to be appointed as auditors.

(3) The council shall pay to the Administrator within three months from the date of signing and certifying the accounts of the council for any one financial year, such sum as the Administrator may in each case determine as having been the cost of the audit of such accounts, provided that the amount so

\* As amended by section *one* of Ordinance No. 11 of 1942.

determined shall not exceed one per centum of the normal expenditure as certified by the auditor, subject to a minimum of five pounds provided that if necessary an additional amount may be included in the fee for non-audit work which has had to be undertaken when for the purpose of an effective audit the accounts require to be completed, adjusted or balanced by the auditor conducting the examination.

(4) Notwithstanding the preceding sub-section the fee to be paid to an auditor so appointed who is not an officer of the public service shall be determined by the Administrator after consultation with the council concerned. When due such fee shall be paid either annually or quarterly to the auditor by the council which shall advise the Administrator thereof immediately thereafter.

(5) Local authority audit fees, other than those referred to in the preceding sub-section, shall accrue to the Provincial Revenue Fund.

(6) It shall be the duty of the auditor or auditors to furnish to the Administrator a report in writing in manner prescribed, and in the case of auditors who are not public servants such reports shall simultaneously be furnished to the council. In addition the auditor shall certify not less than once in each financial year whether or not—

- (a) the accounts of the council are in order,
- (b) separate accounts of all trading undertakings (if any) have been kept,
- (c) the accounts issued present a true and correct view of the financial position of the council of its transactions, and of the results of the trading (if any),
- (d) due provision has been made for the redemption and repayment of any moneys borrowed whether in the form of municipal stock or in whatever form including bank overdrafts,
- (e) the amounts set aside for depreciation and obsolescence of plant or other assets acquired from loan or capital funds are adequate and in accordance with prescribed regulations,
- (f) the value of the assets of the council has been fairly stated,
- (g) the details of the several registers have been reconciled and adjusted with ledger balances and are correct,
- (h) all his or their requirements and recommendations (as auditor or auditors) have been complied with and carried out.

(7) It shall be the duty of the town clerk immediately upon receipt from the Provincial Secretary, or in the case of the auditor referred to in sub-section (4) hereof, of the accounts of the council and the audit inspection report or reports thereon or copies thereof to submit the same to the mayor and/or chairman of the finance committee and thereafter to lay the same before the council at its next ensuing meeting by means of the agenda in which the said documents shall be embodied verbatim and to furnish within fourteen days after such meeting has been held a copy of such agenda to the editors of two or more newspapers—one of which shall be a daily newspaper circulating within the area of the local authority.

#### **Powers of Auditors.**

60. For the purpose of any audit under the provisions of the last preceding section the auditor may hear and receive evidence and examine witnesses upon oath (which oath the auditor is hereby empowered to administer) and, by summons under his hand, require such persons as he may think fit to appear personally before him at a time and place to be stated in such summons and to produce all such books and papers (including the minutes of the proceedings of the council or of any committee of the council) as may be necessary for such audit. Any person so required who shall without lawful excuse refuse to attend in obedience to such summons, or who, having appeared, shall refuse to be examined on oath or to take such oath, or, having taken such oath, to answer such questions as shall be put to him, shall be liable to a fine not exceeding twenty pounds for every such act or offence; provided that no conviction under this section shall be deemed to exempt the person convicted from liability to do or perform the act, matter, or thing required to be done or performed by him, or from being successively convicted and punished for every distinct commission of the same act or offence.

#### **Auditors' Power to Surcharge.**

61. (1) The auditor or auditors appointed by the Administrator shall disallow every payment made without due authority according to law and surcharge the same on the person or persons making or authorizing the illegal payment, and shall charge against any person or persons responsible therefor the amount of any deficiency or loss incurred by the negligence or misconduct of such person or persons, or of any sum which ought to have been brought into account by any such person or persons, and shall in every case certify the amount due from such person. Every sum so certified by the auditor shall be paid by such person or persons to the town clerk or other official appointed by the council

within fourteen days after written demand and, if not so paid, may be recovered from such person or persons as a debt by the auditor, who shall be paid by the council his reasonable costs and expenses incurred in such proceedings. Any sum so recovered shall be paid to the town clerk or other official appointed by the council to receive and give a discharge for revenues payable to the council; provided that the Administrator may remit the whole or any part of any sums surcharged against any person under this section.

(2) For the purposes of this section the persons making or authorizing any illegal payment shall include all councillors or members of any committee of the council who were present at the meeting of the council or committee at which such payment was authorized and who did not cause their votes against the resolution authorizing such payment to be recorded in the minutes.

(3) The provisions of this section and of the preceding section shall apply *mutatis mutandis* to the audit of any fund which is still in existence and which was established under the provisions of sub-section (33) of section *seventy-nine* of Ordinance No. 11 of 1926.

## CHAPTER VI.

### POWERS AND DUTIES OF MUNICIPAL COUNCILS.

#### PART I.—GENERAL POWERS.

##### Appointment of Town Clerk and other Officials.

62. (1) Subject to the provisions of sections *twelve* and *fourteen* of the Public Health Act, 1919, the council shall from time to time appoint a town clerk and a medical officer of health who shall be a person duly registered as a medical practitioner in the Union, and the council may appoint such other officers as it may consider necessary and may pay such salaries and monetary allowances to such officers as it may determine; and, unless it shall be otherwise stipulated in the contract with or in the appointment of an officer of the council, it may at any time remove such officer upon notice of not less than one month or, in the case of misconduct, immediately without notice; provided that—

(a) no officer holding the post of town clerk, medical officer of health, town treasurer or town engineer shall be removed from office unless and until such removal shall have been decided upon by a majority of councillors present at a meeting specially convened for the purpose and that the number of members voting in the majority is equal to a majority of the full council;

(b) the removal of a medical officer of health and of a sanitary inspector shall be subject to the provisions of sections *twelve* and *fourteen* respectively of the Public Health Act, 1919; and

\* (c) the removal or the reduction in the salary or emoluments of a town clerk, town treasurer, or town engineer shall be subject to the approval of the Administrator.

(2) Save as provided in sub-section (1) of section *thirty-nine* no person may be appointed under the provisions of this section who is a member of the council or who has been such a member at any time during the six months prior to the said appointment.

(3) No officer or servant appointed under the provisions of this section shall perform or engage himself to perform remunerative work outside the municipal service without the special permission of the council first had and obtained. Such permission shall be granted by a resolution of the council and may be made subject to any such conditions as the council may deem fit to impose.

(4) No person shall be appointed under the provisions of this section in a permanent capacity or on probation unless such person is a Union National and is of good character and free from any mental or physical defect, disease or infirmity which would be likely to interfere with the proper performance of his duty or to render necessary his retirement therefrom earlier than the prescribed age of retirement, and has resided for not less than three years in the Union or the Mandated Territory of South West Africa; provided that a person may be appointed who has not the said residence qualification or is not a Union National if the Administrator is satisfied that it is necessary or desirable to make such appointment on account of technical or professional qualifications or for other special reasons in the discretion of the Administrator; provided further that no such appointment shall be made unless the Administrator has signified in writing to the council that he is so satisfied.

(4)*bis* (a) The council shall not appoint any person permanently or on probation to a post in respect of which the duties are of a professional, administrative or clerical nature or to such other post as the Administrator may by proclamation in the *Provincial Gazette* determine unless the council is satisfied that such person possesses a sufficient knowledge of both official languages for the post to which such person is to be appointed; provided, however, that

\* As amended by section *two* of Ordinance No. 11 of 1942.

the provisions of this paragraph shall not apply to any person who is in the service of the council on the date of the coming into operation of this sub-section.

(b) The Administrator may from time to time by proclamation in the Provincial Gazette determine that the provisions of paragraph (a) of this sub-section relating to the appointment of persons to posts in respect of which the duties are of a professional, administrative or clerical nature shall be applicable to such other post as may be specified by him.

(5) The council shall require from every officer entrusted by it with the handling of money or stores on its behalf security to the satisfaction of the council which may, if it deems fit, defray from its funds and fidelity premium considered reasonable.

#### Public places Vested in Council.

\*63. The council shall have the control and management of all—

(a) roads, streets, thoroughfares, bridges, overhead bridges, subways, including foot pavements, footpaths, side-walks, and lanes;

(b) squares and other open spaces, gardens, parks, and other enclosed spaces;

(c) culverts, and ferries;

(d) dams, canals, reservoirs, water-courses, and water-furrows;

which have been or shall be at any time set apart and appropriated by proper authority for the use and benefit of the public, or to which the inhabitants of the municipality shall at any time have or acquire a common right, and the same shall be vested in the council in trust to keep the same open (save as is otherwise provided in this Ordinance or any by-law), and in repair so far as the finances of the council will permit, for the use and benefit of the inhabitants; provided that nothing herein contained shall make any of the municipalities through which the main reef road runs liable for its construction or maintenance.

For the purposes of this section—

(i) the expression "set apart and appropriated by proper authority" shall mean the filing in the Deeds Office or other registration office of any township plan or any alteration, addition to or amendment thereof approved by the Surveyor-General on which are marked such roads, streets, squares, to which the public have a common right of user;

(ii) the term "vested in the council" shall mean the statutory grant to the council of a servitude for the purposes mentioned in this section over the property so vested but shall not include the *dominium* of such property, except when by any law such *dominium* expressly passes to the council.

#### Power to appropriate Public Squares, etc., for certain Purposes.

†64. (1) Anything to the contrary in this Ordinance notwithstanding the council may, with the consent of the Administrator, set apart on any square, open space, garden, park or other enclosed space vested in the council under section *sixty-three* or on any portion thereof a site or sites for the erection of public or municipal building and/or for playground purposes in connection with any public school or schools established and maintained under the Education Act, 1907 (Transvaal) or any amendment thereof, and cause such buildings to be erected and maintained, or permit the same to be erected and maintained by the Government or Provincial Administration on sites so set apart, and cause or permit such sites to be fenced; provided that the council or Government or Provincial Administration (as the case may be) shall have or obtain the *dominium* of such site or sites, and shall cause to be defined and registered in manner by law prescribed the sites so set apart; provided further that no site so set apart shall be sold, let, or otherwise disposed of for any other purpose than public or municipal buildings or playground purposes as aforesaid; provided also that in respect of any site so set apart which shall not be used for a period of ten years for the erection and maintenance of a building for a public or municipal purpose or for playground purposes as aforesaid, the consent of the Administrator aforesaid may be withdrawn and thereupon the Registrar of Deeds or other registration officer shall, upon the application of the Administrator, note in his registers the fact that such consent is withdrawn.

For the purposes of this section the expression "public buildings" shall include a public school building or a hostel erected from public funds or otherwise and used solely for boarding or educational purposes in connection with any public school or schools established and maintained under the Education Act, 1907 (Transvaal), or any amendment thereof.

(2) Where a site has been set apart by the council under the last preceding sub-section for a school boarding hostel it shall be lawful for the Government

\* As amended by section *six* of Ordinance No. 12 of 1941.

† As amended by section *two* of Ordinance No. 19 of 1943.

or the council (as the case may be) subject to the two last-mentioned provisos of the said sub-section, to transfer the site so set apart to any person or body of persons responsible for the establishment and maintenance or erection of such school boarding hostel subject to such conditions as to retransfer or cancellation of transfer or otherwise as the Government or council may deem fit.

#### **Stands for Street Traders.**

65. The council may from time to time under by-laws made and approved in accordance with the provisions of Part II of Chapter VII—

(1) appoint stands in public places for street-traders, pedlars and hawkers and abolish enlarge or diminish any such stands or increase or diminish the number of such stands and limit the space to be occupied by each person on any such stand and the number of persons who may occupy any particular stand;

(2) fix the charges to be paid for the right to use such stands, vary the said charges according to the stand used, increase or decrease such charges and fix the conditions upon which such stands shall be occupied and the times during which they may be occupied;

(3) fix by priority or application or by lot, tender or otherwise the positions on any such stand which persons are to occupy,

(4) make rules to be observed by persons occupying such stands;

(5) provide the form of authority to be issued for occupying such stands, the conditions upon which such authorities are issued and under which they will be permitted to be transferred, fix the fee to be paid for the transfer of such authority and prohibit any person who is neither named in such an authority nor a permitted transferee or such an authority from occupying any such stand.

#### **Powers to Close Public Places Temporarily, etc.**

66. Anything to the contrary in this Ordinance notwithstanding the council may at all times, and upon such notice as it shall deem fit, and for any purpose whatsoever close temporarily any square or other open space, gardens, parks and other enclosed spaces vested in the council, and may close temporarily or permanently, for any particular class of traffic, procession or gathering or temporarily for all traffic, any street, road or thoroughfare vested in the council, or temporarily divert any such street, road or thoroughfare, for any purpose, in the discretion of the council; provided that where any such closing is permanent the approval of the Administrator must first be obtained and provided further that during any temporary closing of any public place hereunder the council may let or grant the temporary use thereof to any person or body of persons subject to any such conditions as the council may decide.

#### **Permanent Closing or Diversion of Street.**

\*67. Notwithstanding anything to the contrary in this Ordinance contained the council may permanently close or divert any street or portion of a street if and when the following conditions have been complied with:

(1) Notice of the intention to move that steps be taken for the closing or diversion of a street or portion of a street shall be given at a meeting of the council at least fourteen days prior to the meeting at which the motion will be dealt with.

(2) If the said motion be agreed to the council shall cause a plan to be prepared showing the position and boundaries of the street or portion of of the street proposed to be closed or diverted

(3) (a) On completion of the said plan the council shall publish a notice in the *Provincial Gazette* and in at least one English and one Afrikaans newspaper circulating in the council's area of jurisdiction setting out briefly the council's proposals, stating that the said plan is open for inspection at a place and during the hours specified in such notice and calling upon any person who has any objection to the proposed closing or diversion or who will have any claim for compensation if such closing or diversion is carried out to lodge his objection or claim, as the case may be, with the council, in writing, not later than a specified date which shall be at least sixty days from the date of publication of the *Provincial Gazette* or newspaper in which the notice will be published last.

(b) The council shall at least sixty days before the time for the lodging of objections and claims will expire—

(i) cause copies of the said notice to be posted in a conspicuous manner on or near the street or portion of the street which it is desired to close or divert and shall cause such copies to remain posted as aforesaid until the time for the lodging of objections and claims has expired;

(ii) cause a copy of the said notice to be served on the owners or reputed owners, lessees or reputed lessees and the occupiers of all properties

\* As substituted by section three of Ordinance No' 11 of 1942.

abutting upon the street or portion of the street which it is proposed to close or divert; provided that if the name and address of any such owner, reputed owner, lessee, reputed lessee or occupier cannot after reasonable enquiry be ascertained a copy of the notice need not be served on him;

(iii) cause a copy of the said notice to be transmitted to the Townships Board constituted under section *two* of the Townships and Town-planning Ordinance 1931 Ordinance (No. 11 of 1931), or any amendment thereof.

4. (a) Any person who considers that his interests will be adversely affected by the proposed closing or diversion may at any time before the time for the lodging of objections and claims has expired, lodge with the council a claim, in writing, for any loss or damage which will be sustained by him if the proposed closing or diversion is carried out. If such closing or diversion is carried out the council shall pay compensation for the damage or loss sustained by such person, the amount of compensation in default of mutual agreement to be determined by arbitration. In assessing the amount of compensation the benefit or advantage derived or to be derived by the claimant by reason of the closing or diversion shall be taken into account. If such person however, fails to lodge his claim with the council during the period during which objections and claims may in terms of paragraph (3) of this section be lodged he shall not be entitled to any compensation for any damage or loss sustained by him.

(b) If the council finds that the payment of compensation will be too costly, it may resolve not to proceed with the proposed closing or diversion.

(5) If no objections are lodged with the council under paragraph (3) of this section, the council may at any time after the time for the lodging of objections and claims has expired cause the proposed closing or diversion to be carried out.

(6) If any objection is lodged with the council under paragraph (3) of this section, the proposed closing or diversion shall not be carried out until the Administrator's consent has been obtained and the council shall in such event forward to the Administrator—

- (a) full particulars of the proposed closing or diversion;
- (b) certified copies of the objections lodged in terms of paragraph (3) of this section;
- (c) a copy of the plan referred to in paragraph (2) of this section; and
- (d) a certificate to the effect that the provisions of this section have been complied with.

(7) On receipt of the documents referred to in paragraph (6) of this section, the Administrator may in his discretion appoint a commission consisting of one or more persons to enquire into the propriety of the proposed closing or diversion and the objections thereto and to report to him on the matter.

(8) The Administrator may disallow the proposed closing or diversion or authorise it with such modification and on such conditions as he may deem fit, provided that if a commission has been appointed under paragraph (7) of this section the Administrator shall not arrive at a decision before the report of the commission has been considered by him.

(9) The council shall as soon as the proposed closing or diversion has been carried out notify the Administrator who shall after having satisfied himself that the closing or diversion has been properly effected and that the provisions of this section have been complied with, notify the Surveyor-General and Registrar of Deeds or other registration officer concerned that the closing or diversion has been properly effected under this Ordinance.

(10) The council shall supply the Surveyor-General with a diagram framed by an admitted Land Surveyor showing all the details of the closing or diversion. The Surveyor-General shall thereupon cause such amendments to be made in the general plan of the township as are necessary to show such closing or diversion and the Registrar of Deeds or other registration officer concerned shall thereupon make corresponding entries in his registers.

Whenever a street or portion of a street is closed or diverted under the provisions of the Local Authorities Roads Ordinance, 1904 (Ordinance No. 44 of 1904), the provisions of this section shall not apply.

For the purposes of this section the word "street" shall include a road, thoroughfare, footpath, sidewalk or lane vested in the council under section *sixty-three* of this Ordinance.

#### **Power to Close certain other Public Places Permanently.**

\*68. Anything to the contrary in this Ordinance notwithstanding the council may, with the consent of the Administrator, and subject to such conditions as he may impose, close permanently either in whole or in part, any square, open space, garden, park, or other enclosed space vested in the council under section *sixty-three* of this Ordinance; provided that with regard to the exercise of the power hereby conferred upon the council the provisions of section *sixty-seven*

\* As amended by section *four* of Ordinance No. 11 of 1942.

shall *mutatis mutandis* apply; provided further that, if the conditions imposed by the Administrator include the setting apart of other areas in lieu of those closed the Administrator shall notify the Surveyor-General and the Registrar of Deeds to that effect; and the Surveyor-General shall be supplied, if necessary, by the council, with a diagram framed by an admitted land-surveyor, showing all details of the said new areas, and shall endorse on the general plan of the township or on the diagram of the land on which the said areas have been selected, as the case may be, that such areas are squares or open spaces or gardens or parks, and the Registrar of Deeds shall make corresponding entries in his registers and such endorsements on the title-deeds as may be necessary. Thereupon such squares, open spaces, gardens or parks as the case may be shall be deemed to be appropriated and set apart by proper authority as defined in section *sixty-three* hereof and the control and management thereof shall vest in the council.

#### **Numbering of Houses and Naming of Public Places.**

\*69. (1) (a) The council may from time to time cause the houses, buildings, or erections fronting upon all or any public places to be marked with such numbers as it thinks fit, and may cause the name, by which any public place is to be known, to be put up or painted on a conspicuous part of any house, building, fence, wall, or place fronting thereon, and may further at its discretion change or vary any such number or name, whether or not such number or name existed before the commencement of this Ordinance, and any change or variation in the name of any public place shall forthwith be notified by the council to the Surveyor-General who shall make the necessary alterations on the general plan of the township; provided that no change in the name of a public place shall be made except with the consent of the Administrator after reference to the Surveyor-General. Such changes or variations shall also forthwith be notified by the council to the Postmaster-General.

(b) The council may, from time to time, by notice in writing to the owner or occupier of any land, direct him at his own expense to affix or paint any number and/or letters specified in such notice within thirty days of the date on which such notice is posted or delivered by the council, on such part of and in such position on such land or any building or erection thereon and in such manner as shall be specified in such notice or to remove any number from such land or from any building or erection thereon within a period specified in such notice.

(c) Any person who contravenes or fails to comply with any provision contained in a direction given under paragraph (b) of this sub-section shall be guilty of an offence and liable, on conviction, to a fine not exceeding ten pounds and in default of payment to imprisonment with or without hard labour for a period not exceeding one month.

(2) Any person who, without the permission of the council—

(a) destroys, removes or defaces any number or name affixed or painted by the council in terms of paragraph (a) of sub-section (1) of this section, or

(b) destroys, removes or defaces any number, and/or letters affixed or painted by a person in terms of a direction given under paragraph (b) of sub-section (1) of this section, or

(c) affixes or paints any number or name on any of the places referred to in paragraph (a) of sub-section (1) of this section different from the number or name affixed or painted by the council on the place concerned in terms of the said paragraph (a), or

(d) affixes or paints any number and/or letters on any land or any building or erection thereon different from the number and/or letters affixed or painted on such land or any building or erection thereon by a person in terms of a direction given under paragraph (b) of sub-section (1) of this section.

shall be guilty of an offence and liable, on conviction, to a fine not exceeding ten pounds and in default of payment to imprisonment with or without hard labour for a period not exceeding one month.

#### **Midnight Privileges to Restaurants, etc.**

70. Notwithstanding anything to the contrary in section *four* of the Shop Hours Ordinance 1923, and any amendment thereof, the councils of the municipalities of Pretoria and of Johannesburg, and of any other municipality to which the Administrator shall by proclamation in the *Provincial Gazette* apply the provisions of this section, shall be empowered to grant permission to persons holding a licence in respect of any premises licensed as a tearoom, café, coffee-room, or restaurant to keep such premises open to the public between such hours after the latest closing hour prescribed for any such shop under the said Ordinance and subject to such conditions as the council may think fit. The council may charge such extra fee for any privilege granted hereunder as may be prescribed by by-law. Any permission granted under the provisions of this section may at any time be modified or withdrawn.

\* As amended by section *seven* of Ordinance No. 12 of 1941.

**Power to Establish Pounds.**

71. The council may establish pounds, but may not receive into any pound which it has established any animal which is liable to be impounded outside the limits of the municipality under the provisions of the Pounds Ordinance, 1913 and any amendment thereof, provided that the Administrator may, by notice in the *Provincial Gazette* give permission to the council to receive into any pound which it has established animals which are liable to be impounded outside the limits of the municipality under the provisions of the Pounds Ordinance, 1913 and any amendment thereof, and may by like notice from time to time modify, amend, or withdraw such permission. The Administrator may from time to time make, alter, or rescind regulations—

- (1) for the management of pounds by the council;
- (2) for fixing and defining the charges payable by the owners of impounded animals;
- (3) as to the conditions under which impounded animals may be sold by the council;
- (4) as to the transfer of property in such animals on such sale;
- (5) to regulate the entry of police without warrant into pounds.

**Power of Entry.**

72. (1) Anything to the contrary in any law notwithstanding, the council shall have power by itself or its officers or servants to enter into and upon any premises within the municipality, forcibly if need be, for the purpose of exercising any power of inspection inquiry or execution of work which is given to the council under this Ordinance or under any by-law or regulation in force within the municipality, provided that except for the purpose of carrying out any sanitary service or for any other purpose specially provided for in this Ordinance or any other law such power of entry shall not be exercised in respect of premises which are not used for the purpose of or in connexion with any trade or business and are not situate in a native location save between the hours of 7 a.m. and 7 p.m. unless either—

(a) there is reasonable ground for suspecting that any act causing a nuisance or constituting a contravention of this Ordinance or any by-law or regulation in force in the municipality is being committed on such premises at any other hour; or

(b) entry on such premises at some other hour appears on reasonable grounds to be necessary for the purpose of dealing with any case of infectious or contagious disease or any outbreak of fire, escape of water, or other emergency, whether actual or suspected.

(2) The medical officer of health or any sanitary inspector may when entering upon any premises in exercise of the power conferred by this section be accompanied by any European member of a police force lawfully established in the Province.

(3) Any by-laws or regulations made under this Ordinance may confer on the council its officers and servants such powers of inspection inquiry and execution of works as are reasonably necessary for the proper carrying out or enforcement thereof.

**Power to Inspect Wells, Boreholes, Tanks, and Cisterns, and to Close the Same.**

73. The council may by its members, officers or servants inspect all wells, boreholes, tanks, and cisterns within the municipality the water wherein or wherefrom is used or likely to be used by man for drinking or domestic purposes, or for the manufacture of drinks for human consumption, or as an ingredient in the manufacture of any article intended for food for human consumption; and if, on any such inspection or on the representation of any person, it shall at any time appear that such water is so polluted as to be injurious to health or that any by-laws in respect thereof have not been complied with, the council shall call upon the owner or occupier of the premises to which the well, borehole, tank, or cistern belongs, forthwith to close or remedy the same and failing compliance with such notice the council may take proceedings before any competent court whether by way of summons or application; and on any proceedings against such person for such non-compliance or for breach of any by-law the court may, in the event of a conviction, make an order directing the well, borehole, tank, or cistern to be permanently or temporarily closed by such person or may make such other order as may appear requisite or necessary to prevent injury to the health of persons using the water therefrom, and may in addition sentence the person convicted to a fine not exceeding five pounds. The court may further, if it appear necessary, cause the water to be analysed at the cost of the council, and in making any such order, may further authorize the council, if the person on whom an order is made under this section fails to comply with the same within a period which the court deems reasonable, to do whatever may be necessary to execute such order, and all expenses incurred by the council may be recovered from the person on whom the order was made;



provided that in the case of any such well, borehole, tank, or cistern being situated upon unoccupied ground within the municipality, the owner of which (or some person duly authorized to represent him) cannot after reasonable inquiry be found, any such notice, summons, or other process aforesaid shall be deemed to be sufficiently served if affixed to such tank or cistern, or to any building, erection, post or board upon or in the immediate vicinity of such well, borehole, tank, or cistern.

#### **Power to Inspect Water Supply.**

74. The council may, by its members, officers, or servants at all reasonable times without notice, enter upon, inspect, and take samples from, or require information in respect of the condition and working of all catchment areas, rivers, and canals, springs, wells, boreholes, reservoirs, filter-beds, water purification or pumping works, or other sources of water supply, storage, or distribution situated within the municipality, the water wherein or wherefrom is used or is likely to be used by man within the municipality for drinking or domestic purposes.

#### **Power of Council to Close, Cleanse, and Demolish Premises.**

75. (1) Whenever it appears to the council or a committee thereof on the certificate of the medical officer of health (which certificate shall state fully the grounds and reasons on which it is based) that any premises are in consequence of defective or unsuitable construction or arrangement, bad condition, want of light, air, or ventilation, or other reason, in a state so dangerous or injurious to health as to be unfit for human habitation or to constitute a danger to the health of the inhabitants of any neighbouring premises, the council may, after giving not less than seven days' notice in writing of its intention to the owner of such premises and to the occupants (if any), apply to the magistrate's court having jurisdiction in the municipality, for an order closing such premises, and such court may upon such application make an order closing such premises and prohibiting the use and occupation thereof, until such time as it shall be satisfied that alterations have been made, whether by removal or reconstruction of any building or otherwise, so as to prevent any such danger aforesaid resulting from the occupation of such premises, and such court may thereafter on being so satisfied on the application of the owner of such premises, withdraw such order as to the whole or any part of such premises, provided that, before making such application, the owner of such premises shall give not less than forty-eight hours' notice in writing to the council of his intention to make the same.

(2) The magistrate's court having jurisdiction in the municipality may on the application of the council, without notice to the owner, summarily order the closing and prohibit the use, occupation of, and entry into any premises on which bubonic plague infection in man or animals is certified by the medical officer of health to exist.

The provisions of the last preceding sub-section relating to the withdrawal of a closing order shall *mutatis mutandis* apply in the case of any order made under this sub-section.

(3) (a) Where a closing order has been made in respect of any premises, the council shall forthwith cause a copy of such order to be affixed in a conspicuous position on the premises.

(b) Any person who shall use or occupy any premises during the use and occupation of which have been prohibited by any closing order, during the time that such order remains in force, shall be liable to a fine not exceeding ten pounds, and to a further fine not exceeding two pounds for every day during which such use or occupation continues; provided that, after the affixing of a copy of such order in the manner aforesaid, forty-eight hours' grace or such longer time as the council may determine shall be allowed to any person occupying the premises at the date when the copy of such order was so affixed, before such order is enforced against such person.

(4) The magistrate's court having jurisdiction in the municipality may upon application by the council order the cleansing and disinfecting of any premises in respect of which a closing order has been or may be made under this section, and shall by such order specify a time within which such cleaning or disinfecting shall be carried out; and, in default of full compliance with any such order, the council may enter upon any such premises and do all things necessary for completely executing the order, and may recover by action in a competent court the costs and expenses of and incidental to its execution from the person against whom the order has been made. Any such order may be made upon the owner or on the occupier of the said premises.

(5) (a) When a closing order in respect of any premises has remained operative for a period of three months the council may after giving not less than fourteen days' notice in writing of its intention to the owner of such premises apply to the magistrate's court having jurisdiction within the municipality for an order authorizing the demolition of such premises, and such court, if

satisfied at the hearing of the application that alterations have not been made so as to prevent any such danger or injury as is mentioned in sub-section (1) resulting from the occupation of such premises and that the necessary steps are not being taken with all due diligence to make such alterations, or that the continuance of any building being or being part of such premises is a nuisance or dangerous or injurious to the health of the public or of the inhabitants of the neighbouring premises shall make an order authorizing the council to demolish the building, provided that the court may, if it shall think fit, postpone the operation of the order for such time not exceeding six months as it thinks sufficient to give the owner an opportunity of making the necessary alterations.

(b) The council may recover from the owner of any premises the cost of demolishing such premises in pursuance of an order made under this section.

(6) (a) Any notice required by this section to be given to any person may be served by delivering the same to, or at the residence or place of business of, the person to whom it is addressed or may be served by registered letter by post on such person.

(b) When the owner of any premises to whom notice is required to be given under this section does not reside or carry on business within the municipality or cannot after reasonable inquiry be found therein, such notice shall be deemed to be sufficiently given to such owner if affixed to the premises to which the same relates.

#### **Penalty for Insanitary Yards, etc.**

76. If any yard or sanitary convenience within the municipality used in common by the occupiers of two or more separate dwelling-houses, or by different tenants of the same building, or by other persons, or the approaches to, or the walls, floors, seats, or fittings of such sanitary convenience is or are, in the opinion of the medical officer of health or of any sanitary inspector, in such a condition as to be a nuisance or annoyance or a danger to health for want of proper cleansing thereof, such of the persons having use thereof, in common as aforesaid, as may be in default, or in the absence of proof as to which of the persons having use thereof in common is in default then each of those persons shall be liable to a penalty not exceeding five pounds and any of those persons who fails to comply with a notice served upon him by the council calling upon him to remedy the condition of such yard or sanitary convenience shall further be liable to a penalty not exceeding ten shillings for each day during which such condition shall continue after service of such notice.

#### **Transport of Sick Indigent Persons.**

77. It shall be the duty of the council upon application, to provide, at its own expense and free of charge, for the transport, by such ambulance or other means as may be required on the certificate of a medical practitioner, of any sick indigent person or free patient in need of such transport to the nearest hospital to which the admission of such person or patient has been ordered by the magistrate or approved by the management of such hospital and the council is hereby authorised and empowered to incur any expenditure necessary therefor.

For the purposes of this section—

(1) "indigent person" means a person whom the magistrate after making such inquiries as in the circumstances are necessary is able to certify—

(a) is sick and requires medical examination or treatment at a hospital,

(b) is unable to pay for such examination or treatment himself and has no relatives legally liable and able to assist him to do so, and

(c) has lived for at least three months in the municipality prior to the date of any such application;

(2) "free patient" has the same meaning given to that expression by section *two* of the Public Hospitals Ordinance, 1928 as amended, provided that such patient has lived in the municipality for at least three months prior to the date of his admission to hospital;

(3) "Council" means a city council or a town council.

#### **Summoning of Public Meetings.**

78. The mayor may, from time to time if he shall see fit and upon receipt of a requisition signed by such number of enrolled voters for the municipality, as shall from time to time be fixed by resolution of the council or by by-law, requesting him to summon a public meeting of inhabitants for the discussion of any matter of public interest to be specified in the requisition, summon such meeting at such time and place as he may determine, and any costs incurred by the mayor in connexion with the summoning and holding of any such meeting may, if the council shall so resolve, be defrayed out of the revenue of the council; provided that no such meeting shall be called for the purpose of promoting, opposing, or discussing the election of any person as a councillor or as a member of any municipal body, or of the provincial council or of parliament.

**General Powers.**

\*79. The council may do all or any of the following things, namely—

(1) (a) make, construct, alter, keep clean and in repair the roads, streets, squares and open spaces, dams, canals, reservoirs, water-courses, furrows, ferries, culverts, and bridges vested in the council under section *sixty-three* hereof;

(b) make, construct, alter, keep clean and in repair sub-ways or overhead bridges and alter gradients of roads and streets vested in the council under section *sixty-three*;

(2) (a) establish, maintain, and carry out such sanitary services for the removal and destruction of or otherwise dealing with night-soil, urine, slops, rubbish, carcasses of dead animals, and refuse of all kinds, and make such charges therefor as the council may from time to time determine;

(b) establish, maintain and carry out such services for the removal and treatment of fresh or decomposing animal manure and make such charges therefor and sell within or outside its area of jurisdiction any animal manure so removed and treated when completely decomposed at such rates as the council may from time to time determine;

(c) make advances under such conditions as may be approved by the council to any owner of land of money or material for the purpose of enabling him to instal on his premises the system known as the vacuum tank system of night-soil and slop removals or any other like system approved by the council on the recommendations of the medical officer of health.

The provisions of sub-sections (2) to (5) of section *one hundred and forty-two* hereof shall *mutatis mutandis* apply to any advances made under this paragraph.

(3) (a) Establish and maintain cemeteries and make charges in connexion therewith and compel the burial of dead bodies in a proper burial ground or cemetery within or outside the municipality, and take over control and maintain any existing cemetery or burial ground, and close for burial purposes any church, municipal, private or other cemetery or burial ground or any portion thereof within the municipality, provided that no such closing shall take place until a resolution stating the council's intention to effect such closing has been passed by a majority of two-thirds of the councillors at the time in office, and has been published in the *Provincial Gazette* and in one or more newspapers circulating in the municipality at least one week prior to such closing;

(b) set apart separate portions of any cemetery established by the council or establish separate cemeteries for the burial therein respectively of white persons, persons of different religious denominations, natives, Asiatics or other coloured persons;

(4) erect, maintain, and keep in repair any buildings for any municipal requirement or purpose;

(5) plant, trim, or remove trees in or on any public place;

(6) establish, equip, maintain and carry on within or outside the municipality afforestation works for the production and disposal of timber whether within or outside the municipality, and do all things necessary in connexion therewith;

(7) light public places and erect and maintain lamps for that purpose;

(8) establish, maintain, and carry on recreation grounds on town lands, and on parks, squares and open spaces vested in the council under section *sixty-three* hereof and on any land held in freehold or leasehold by the council, and make charges in connexion therewith, provided that in cases of land held in leasehold the consent of the Administrator shall first be obtained; such recreation grounds may in the discretion of the council be set apart exclusively for the use of Europeans or Asiatics or natives or coloured persons.

(9) erect, make, establish, maintain, and carry on in connexion with or on recreation grounds establish by the council aquariums, piers, pavilions, dressing-rooms, lavatories and other conveniences, and any other buildings or structures of any nature whatever and for any purpose whatever which the council may decide to be necessary or convenient, and the general management, regulation, and control of the same shall be vested in the council, who may from time to time—

(i) determine the charges, if any, to be made for the use thereof, or

(ii) let the same or portions thereof or any rights therein to any person or club or other body of persons and authorize such person, club, or body to make charges in connexion therewith;

(iii) grant advances or loans to any sporting club upon such terms and conditions as may be approved by the Administrator; provided that, anything to the contrary in this Ordinance notwithstanding unless the council shall otherwise decide, the said charges or any rental

\* Added by section *eight* of Ordinance No. 12 of 1941.

to be paid hereunder shall be determined by resolution of the council without regulation by by-law;

(10) anything to the contrary in this Ordinance notwithstanding, let or grant subject to the approval of the Administrator, the use of any recreation ground, and/or buildings appurtenant thereto established or erected by the council or any part of such recreation ground or buildings to any school, sports club or association of persons on such terms as the council may decide and permit such school, sports club or association of persons to make charges for admission to recreation grounds let or granted by the council; provided that, unless such recreation ground is merely temporarily closed for a period not exceeding three days under section *sixty-six* of this Ordinance, the resolution of the council so to let or grant the use of such recreation ground shall be published in the manner prescribed by paragraph (b) of sub-section (18) hereof;

(11) set apart any such portion of any recreation ground established by the council as may be fixed by the council and described in a notice set up in some conspicuous position in such recreation ground for the purpose of any particular game or recreation and to exclude the public or any class or section thereof from the part so set apart while it is in actual use for that purpose;

(12) provide any apparatus for games and recreations in respect of any recreation ground established by the council and make charges for the use thereof, or permit any person, club or other body of persons to provide any such apparatus on such terms as the council may decide;

(13) provide and maintain refreshment rooms, cafés and restaurants in any recreation ground established by the council and in any botanical or zoological garden and at any public bath established under sub-section (43) hereof and either manage such refreshment rooms, cafés or restaurants itself or let the same to any person, club or other body of persons on such terms as the council may decide;

14. (a) establish, erect, maintain, regulate and carry on markets, and market buildings, and let portions of such buildings and stalls therein, and make charges in connexion therewith;

(b) establish, erect, equip, maintain, regulate and carry on buildings or depots for the reception and storage of perishable goods, fruit and vegetables and to compel hawkers and pedlars of such goods to store in such depots all such goods as may be unsold in cases where other storage accommodation is in the opinion of the council not available and to make charges in connexion therewith;

(15) make grants of money towards—

(a) the establishment or maintenance—

(i) of public hospitals;

(ii) of public libraries and libraries of schools established, maintained or aided under the Education Act 1907, or any amendment thereof;

(iii) of the institutions in this paragraph mentioned not being of a private character (that is to say) art galleries, museums, zoological gardens, agricultural and horticultural societies, associations for the education of the public in safety first measures and for the care and protection of the public, poultry clubs, kennel clubs, operatic, orchestral and dramatic societies, scientific, literary and musical institutions, including the giving of lectures on scientific literary and other subjects, asylums for the aged, destitute, sick, or infirm, rescue homes, benevolent societies, homes for destitute orphans, relief committees and committees employing district nurses, educational institutions, trade or vocational schools, institutions for the training of persons in domestic science, domestic service or household work or duties, or public voluntary societies or associations in connexion with combating diseases or in connexion with maternity welfare or child welfare, the training of sanitary inspectors or health visitors, instruction in first-aid or home or district nursing or any other matter relating to public health;

(iv) of any municipal employees' medical benefit society, sick fund or similar municipal institution;

(b) with the consent of the Administrator any national or public object, exhibition, organization or institution;

(c) any voluntary society, association or club or organization established for boy scouts or girl guides or for the welfare of or for games and recreation of students or school children or for assisting such children to proceed to the sea-coast or other places during school vacations;

(d) any fund established for the purpose of the entertainment or pleasure of the poor or of the inmates of any hospital or asylum or charitable institution;

(e) the Transvaal Municipal Association;

(f) any Bisley competition;

(16) from time to time grant and render to any of the institutions mentioned in sub-section (15) (a) hereof any municipal service without charge or at such reduced charges from the tariffs in force from time to time as it may deem expedient;

(17) make grants of land to or grants-in-aid of—

(a) the University of South Africa or any university or constituent college of a university by law established in the Province;

(b) any institution or service in the Province duly declared under any law to be included in higher education;

(c) any school, class or institution established, maintained or aided in the Province under the Education Act, 1907, or any amendment thereof; or for the purpose of establishing, extending, or maintaining any boarding establishment or hostel in connexion with any of the foregoing institutions, not being of a private character, and provide bursaries to assist in educating and maintaining scholars and students at any of the said institutions as well as at any other university by law established within the Union of South Africa;

(18) let, sell, or in any other way alienate or dispose of any movable or immovable property of the council, including the granting of prospecting rights, option contracts, and the alienation of rights to minerals, precious and base metals, and precious stones on town lands in any way competent under and subject to the provisions of the Precious and Base Metals Act, 1908, and any amendment thereof, and the Precious Stones Act, 1927, and any amendment thereof, provided—

(a) that, except in the case of any immovable property, as to which special provision has been made by law, and except in the case of leases, other than leases of town lands, not required to be notarially executed under section *twenty-nine* of the Transfer Duty Proclamation (No. 8) of 1902, or any amendment thereof, no sale, lease, or alienation of immovable property or the alienation of any rights to minerals, or the granting of any prospecting or option contracts shall take place or be effective until the consent of the Administrator has been obtained;

(b) that, except in the case of a lease terminable by not more than three months' notice on either side, prior to such sanction being obtained the resolution of the council to sell, lease, or otherwise alienate or dispose of immovable property or to grant such contracts or leases shall be published, at least once a week, during three successive weeks in one or more newspapers circulating in the municipality, provided that in all cases of the alienation of the freehold of land, or of the leasehold thereof for any period exceeding twenty years, publication of such resolution shall also be made by a sufficient number of conspicuous placards posted in on or near the land which it is proposed to alienate and such placards shall be not less than double demy in size and the headings shall be in three-inch type;

(c) that the nett proceeds received by the council—

(i) from the sale of immovable property;

(ii) from the granting of such prospecting rights, options, contracts and the alienation of rights to minerals, precious and base metals, and precious stones on town lands;

(iii) from any alienation or letting of land for the manufacture of bricks and tiles or for quarrying for any purpose;

(iv) arising from rights referred to in section *four* of the Town Lands Ordinance 1904 (Transvaal) or in respect of similar rights derived under any other law

shall be used for the redemption and extinction of debt incurred for capital purposes and provided further that where due provision has been made for the redemption of any debt such nett proceeds or any balance thereof shall be used for such capital expenditure as may be approved by the Administrator or where no debt exists such nett proceeds shall be used for such capital expenditure as the council on a report from the finance committee may direct;

(d) that in selling or leasing any immovable property the council may, with the consent of the Administrator, make provision in the conditions of sale or lease as to the style, class or value of buildings to be erected thereon, and for restricting the use of such property solely to the purpose of residence or business, and for restricting the ownership or occupation thereof or both by Europeans coloured persons, Asiatics or natives or persons of any one or more of such classes, and may insert in the title deeds or leases of any such property the conditions necessary to give full force and effect to such provisions and restrictions;

(19) subject to the provisions of sub-section (18) hereof and notwithstanding anything to the contrary in the Townships Act lease any land belonging to it for such periods and on such conditions as the council may deem fit;

(20) subject to the provisions of the Townships Act establish townships on land the property of the council;

(21) (a) subject to the provisions of any law relating to townships or the registration of agricultural holdings, lay out plots upon or otherwise subdivide any land belonging to the council for the purposes of garden allotments, small holdings, or agricultural holdings;

(b) subject to the provisions of sub-section (18) hereof, let, sell or otherwise alienate or dispose of any such allotments or holdings;

(c) make, alter and revoke separate by-laws applicable only to agricultural holdings on any matter in respect whereof the council is empowered under this Ordinance or any proclamation issued thereunder to make by-laws;

(22) (a) lay out building plots upon or otherwise sub-divided any land belonging to the council for the purpose of housing schemes for inhabitants of the municipality or for the purpose of factory, industrial business or workshop sites;

(b) subject to the provisions of sub-section (18) hereof, let, sell, donate or in any other way alienate or dispose of any such plots or sub-divisions of land and buildings thereon;

(23) lay out on lands under its control either within or outside the municipality such areas for coloured persons as may be deemed desirable, provided that no such area shall be established within the area of jurisdiction of any other local authority without the consent of such local authority;

(24) with the consent of the Administrator acquire by voluntary purchase, or hire any land, right of way, water-right or any other property or servitude within or without the municipality which may be necessary for the purposes of this Ordinance, provided that the Administrator's consent shall not be necessary where no consideration or merely nominal consideration passes in respect of such acquisition or hiring;

(25) with the consent of the Administrator acquire any land for disposal by sale, lease, donation or otherwise and on such terms as the council may decide to any person for the purpose of carrying on thereon any work or trade of an offensive nature which the council is empowered to licence;

(26) establish, erect and maintain dipping tanks, and make charges in connexion therewith;

(27) establish, erect and maintain public lavatories, closets and urinals, above or below ground, and make charges in connexion therewith;

(28) subject to the approval of the Administrator—

(a) erect and maintain dwelling-houses with their appurtenant out-buildings on plots or sub-divisions of land referred to in sub-section (22) and in areas mentioned in sub-section (23) hereof;

(b) convert buildings into dwelling-houses and alter, enlarge, repair and improve the same;

(c) make advances of money on the security of immovable property for the purpose of enabling persons resident in the municipality (including officers or servants of the council) to acquire land and/or to erect dwelling-houses, and recover such advances with interest thereon by instalments, or otherwise as the council may in its discretion arrange with any person to whom an advance is made; provided that dwelling-houses proposed to be built by the council with borrowed money shall be built by contract after tenders have been invited;

(29) establish, acquire, construct, equip and carry on either within or outside the municipality works for the manufacture of bricks and tiles dispose of and deal in the products of such works whether within or outside the municipality and do all such things as may be incidental to such manufacture;

(30) establish, erect, maintain and carry on kaffir eating-houses;

(31) pay the medical or funeral expenses of any person employed by the council who suffers injury or dies as the result of an accident arising out of or in the course of his employment or as a result of illness contracted in consequence of such employment;

\* (32) (a) in cases where no benefits accrue from any pension, provident or benevolent fund, established or arranged by the council, grant from its revenue on such terms and conditions as the council may decide, pensions or gratuities to officers or servants of the council after they have left the council's service or to the widows or dependants of such officers or servants;

(b) in exceptional cases, where the council is of opinion that any benefit accruing from any pension, provident or benevolent fund, established or arranged by the council, to any officer or servant of the council or to the widow or dependants of such officer or servant, is inadequate, grant from its revenue, with the consent of the Administrator, a supplementary pension

\* As amended by section *eight* of Ordinance No. 12 of 1941 and by section *three* of Ordinance No. 19 of 1943, paragraph (c) deemed to have come into operation on the 1st December, 1939.

or gratuity on such terms and conditions as the council may with the Administrator's approval, decide.

(c) (i) maintain, contribute to and regulate a superannuation fund established under the provisions of sub-section (33) of section *seventy-nine* of the Local Government Ordinance, 1926, or any prior law;

(ii) if it maintains, contributes to and regulates a superannuation fund in terms of sub-paragraph (i) of this paragraph, in addition establish, control, manage, maintain, regulate and contribute to a Widows and Orphans Pension Fund intended for the benefit of the widows or dependents of deceased officers and servants of the council on such terms and conditions as the Administrator may determine and grant pensions or gratuities from any such fund to such widows or dependents.

\*32*bis*. (a) subject to the provisions of such by-laws as may be made under sub-section (1)*bis* of section *eighty* establish, control, manage, maintain and contribute to any pension, provident or benevolent fund intended for the benefit of non-European employees of the council and grant pensions or gratuities from such fund to such non-European employees on their retirement from the council's service or otherwise, or to the dependents on death of such non-European employees;

(b) agree with one or more other councils to establish a united pension, provident or benevolent fund for the benefit of non-European employees in the service of any of those councils provided that—

(i) every such united fund shall be established by separate resolutions passed by each of the councils and approved by the Administrator and shall be subject to such by-laws as may be framed under sub-section (1)*bis* of section *eighty* and adopted by each of the councils concerned;

(ii) such by-laws shall provide for the management and investment of such united fund being vested in a joint board consisting of representatives of the councils which are members of the said fund and their employees and for the election of the members of such board;

(iii) the expenses of the administration of a united fund so established shall be defrayed by the councils concerned in such proportions as may be agreed upon from time to time;

(iii) any council other than a council concerned in the establishment of such united fund may by resolution approved by the Administrator and subject to such terms as may be mutually agreed upon between the joint board and the council join in any united fund.

(33) incur all expenditure necessary for the carrying out of any purpose of this Ordinance or any amendment thereof which the council is authorized to carry out, or of any purpose not specially provided for in this Ordinance which the Administrator may determine to be a purpose incidental to the exercise by the council of its powers and duties under this Ordinance, including a reasonable amount of travelling and personal expenses of councillors and officers while on the business of the council;

(34) grant to councillors, passes entitling them to travel without payment on municipal vehicles providing public transport;

(35) pay its subscription to the Transvaal Municipal Association and the reasonable travelling and personal expenses of its representatives incurred in attending meetings of any conference or of the executive committee of the said Association;

(36) lay out and adorn any square or open space the property of or vested in the council under section *sixty-three* hereof by any architectural or other scheme of ornamentation including statues, fountains, or other structures;

(37) establish, erect, and maintain public crematoria, mortuaries, and public weighing machines, and make such charges in connexion therewith as may be fixed by by-law;

(38) acquire, equip, and maintain boats and boating establishments, and make charges in connexion therewith;

(39) establish, erect, maintain, and carry on municipal slaughter-houses, and make charges in connexion therewith;

(40) establish and maintain one or more fire brigades and ambulances, and make charges for the service of such brigades and ambulances and for water used at fires and contract with any neighbouring local authority for mutual assistance in case of fires and carry out the terms of any such contract;

(41) purchase or hire or keep for public use stud animals, such as stallions, jackasses, bulls, rams, boars, or he-goats, and make and regulate charges in connexion therewith;

(42) incur a reasonable amount of expenditure necessary for public entertainment;

- (43) (1) establish, acquire, erect, construct, maintain, assist, promote, and carry on—
- (a) public libraries, museums, theatres, lecture rooms, and lectures or performances in connection with such places;
  - (b) botanical and zoological gardens;
  - (c) public baths and wash-houses, and make charges in connexion therewith;
- (2) decide that the general management regulation and control of institutions mentioned in paragraphs (a) and (b) established by the council shall be vested in and exercised by such committee as such council may from time to time appoint the members whereof need not be members of the council anything to the contrary in this Ordinance notwithstanding;
- (44) establish, maintain, carry on, or contribute to bands for musical performances in public places or municipal halls, and generally provide musical entertainments in such places or halls, and make charges in connexion therewith;
- (45) establish, erect, construct, equip, and maintain boarding-houses or hostels attached to or in connection with educational institutions;
- (46) by order in writing under the hand of the town clerk require the owner of any land abutting upon any public place within the municipality to do any of the following acts—
- (i) to remove or trim trees or hedges overhanging or encroaching on any street or other public place or growing at the corner of two streets, or to remove any obstacle or obstruction to visibility other than buildings or structures in respect of which the council requires a plan to be lodged under its building by-laws where the council is of opinion that removal or trimming is necessary to prevent—
    - injury to any street or public place;
    - obstruction or danger to traffic;
    - obstruction to any furrow, ditch or drain belonging to the street,
 or to permit an uninterrupted view necessary for the safety of traffic approaching any intersection; provided that an owner shall not be required to trim any such trees or hedges to a height of less than three feet from the ground;
  - (ii) to cut down and remove all obstructions to traffic or drainage along the whole frontage of land occupied or owned by him;
- provided that—
- (a) Within ten days after service of the order, such owner may apply to the magistrate for institution of an inquiry for the purpose of determining whether the order should or should not be set aside.
  - (b) After due investigation, the magistrate, whose decision shall be final, shall determine whether the order should or should not be set aside, and in the former case the order shall be deemed to be void.
  - (c) In the case of an order which is not set aside as aforesaid, if the owner fails to do any such act in compliance therewith within one month from the service thereof, or where an inquiry has been held by the magistrate as aforesaid; then within one month after the date upon which the magistrate's decision was given, he shall be liable to a fine not exceeding one pound (£1) for every day thereafter during which such failure continues and the council may enter on the land and do such act and recover the cost from him.
  - (d) The said cost shall be a charge upon the land and may be recovered as rates are recoverable under the Local Authorities Rating Ordinance 1933 and any amendment thereof.
- (47) sell all by-products whether within or outside the municipality resulting from the carrying on of any works or undertakings which the council is authorized to carry on;
- (48) promote and oppose legislation in the interest of the municipality;
- (49) erect, construct, maintain and carry on advertising hoardings on property belonging to or vested in the Council and make charges in connection therewith;
- (50) make, establish, acquire, conduct, maintain, work and carry on stone, clay and gravel pits and quarries within or outside the municipality and dispose of the products of such pits and quarries within or outside the municipality at such prices and charges as the council may by resolution from time to time fix and determine;
- (51) establish, maintain, assist, promote, carry on and administer a bursary loan fund from which loans may be granted or advances made to approved students at any of the educational institutions mentioned in subsection (17) subject to such conditions as may be prescribed by by-law;
- (52) generally and in addition to the powers granted in this section, with the approval of the Administrator, do all things necessary or expedient for the proper carrying out of the powers and duties imposed by this Ordinance or any other law.



Save as in this Ordinance excepted all charges authorized by this section shall be regulated by by-law.

**By-law Powers.**

\*80. The council may from time to time make, alter, and revoke by-laws for all or any of the following purposes, namely—

(1) for regulating any of the things which the council is empowered under this Ordinance or any proclamation issued thereunder to do, establish, maintain, or carry on, and the charges to be made in respect thereof, except as regards pounds;

(1)*bis* (a) for permitting or requiring all or any of its non-European employees to become members of a fund established in terms of sub-section (32)*bis* of section *seventy-nine*;

(b) for fixing the contributions, if any, to be made thereto by such members and by the council;

(c) for periodical valuations of such fund and for the enforcement of any increase in the contributions thereto or diminution in the benefits arising therefrom as may be shown by any valuation to be necessary for maintaining the solvency thereof;

(d) for prescribing the age at which non-European employees in the service of the council shall be permitted or required to become members of the fund and the age at and the conditions under which they shall be permitted or required to retire from the service of the council;

(e) for determining the amount of pension or other benefit to be paid to members on retirement from the service of the council and to their dependents on death;

(f) for regulating the management and investment of funds and the appointment or election where necessary of members of a committee for that purpose;

(g) for vesting property, money or assets pertaining to such fund in trustees for the purpose of administration thereof as directed by any committee of management by and against whom all actions at law relating to the fund shall be brought;

(h) for the retirement, removal and resignation of members of such committee of management or trustees and for filling vacancies caused thereby;

(i) for providing that no pension or right to a pension shall be capable of being assigned or transferred or otherwise ceded or of being pledged or hypothecated or of being attached or subjected to any form of execution under a judgment or order of a court of law and for withholding, suspending or entirely discontinuing the payment of the same in the event of the beneficiary attempting to assign, transfer or otherwise cede or to pledge or hypothecate any pension or right as aforesaid;

(j) for providing that in the event of any non-European employee in receipt of an annuity being convicted by any court within the British Empire and being sentenced to imprisonment without the option of a fine for a period exceeding one month any such annuity shall during such period of imprisonment be payable to his dependents;

(2) for regulating the proceedings of the council and the duties and privileges of their officers and servants, and preserving order at council meetings including the power to suspend and exclude a member who disregards the authority of the chair or wilfully obstructs the business of the council; and for prohibiting, restricting, and regulating the publication and disclosure of the council's documents and records and the proceedings of any committee of the council or a committee of the whole council, and for punishing by suspension a member of the council who is guilty of a breach thereof;

†(3) for establishing, maintaining, and compelling the use of any sanitary service which the council is authorized to carry out or regulate, or which may be established by virtue of any powers vested in the council for the removal and destruction of or otherwise dealing with night-soil, urine, slops, rubbish, fresh or decomposing animal manure carcasses of dead animals and refuse of all kinds and for fixing the charges to be made in respect thereof;

(4) (a) for keeping public places clean and free from filth, rubbish, or refuse, and for prohibiting persons from throwing, dropping or depositing any filth, rubbish, glass, tins, paper, dead animals, waste or flushing water or other refuse, liquid or solid on or in any street, road, bridge, thoroughfare, open space, vacant stand, vacant erf, spruit or water-course, or from causing or allowing any such liquid to flow into any such place and for regulating or prohibiting the bathing or washing of persons, animals, or things in any such place;

\* Added by section *six* of Ordinance No. 11 of 1942.

† As amended by section *nine* of Ordinance No. 12 of 1941.

(b) for compelling owners and occupiers to keep their premises clean and free from filth, debris, rubbish, glass, paper, rags, tins, lumber, weeds or undergrowth which in the opinion of the council is unsightly or is likely to become a nuisance or injurious to health or to cause annoyance to inhabitants of the neighbourhood;

\* (c) for preventing, restricting or regulating the use or the accumulation on private premises, of fresh or decomposing animal manure;

(5) (a) for preventing the use or misuse and securing the closing of cesspools, and for compelling and regulating the provision, construction, position, screening, use, cleansing, and repair of, and for preventing damage to earth-closets, water-closets, privies, ashpits, ashbins, urinals, sinks, fixed baths and fixed basins, waste pipes, drains, and slop tanks in connexion with buildings;

(b) for compelling on any premises the provision and suitable siting of closets for the exclusive use of Europeans and non-Europeans, respectively, employed or resident on the premises;

(6) for the prohibition, removal or abatement and the prevention of recurrence of nuisances, for enabling the council to serve notices either upon the author of a nuisance or upon the owner or occupier of the premises on which the nuisance exists or has existed and is liable to recur; requiring the doing of such work (with or without specifying the nature thereof) within a reasonable time to be specified in the notice as is necessary for the removal or abatement and the prevention of recurrence of the nuisance and for providing that non-compliance with any such notice shall be an offence, and further for enabling the council to do such work at the expense of the person who has failed to comply with the notice, provided that where the nuisance arises from a want or defect of a structural character the notice shall be served on the owner of the premises; provided further that the by-laws may provide that, in any case where it appears that a nuisance existing within a municipality is wholly or partly caused by some act or default outside the municipality, proceedings may be taken against any person in respect of such act or default in the same manner and with the same incidents and consequences as if the act or default were wholly inside the municipality;

(7) for securing the proper construction of and regulating stables, cowsheds, animal kraals, fowl-houses and for preventing the keeping of any animals on premises which are not constructed in accordance with the council's by-laws or are so constructed or so situated that such animals if kept thereon are in the opinion of the council likely to cause a nuisance or injury to health, and for enabling the council or a committee thereof to prohibit the keeping of swine or any other animals on any premises which the medical officer of health certifies to be so situated as to be unfit for the purpose;

(8) for prohibiting the erection of buildings or the conversion of existing buildings for use as stables or cowsheds for trading purposes in residential areas and for defining areas where such buildings may or may not be erected or used;

(9) (a) for ascertaining the existence and cause of any nuisance arising from any drain, closet, cesspool, water supply, sink, trap, syphon, pipe, or other work or apparatus connected therewith, and for remedying the same and recovering the expenses incurred by the council in respect thereof, and to regulate the liability and penalty for nuisance in any yard or sanitary convenience used in common by the occupiers of two or more separate dwellings or by different tenants of the same building;

(b) for regulating, controlling, or prohibiting the construction or use of septic tanks, vacuum tanks and filter installations or other works for the disposal of sewage on or from private property;

(10) for preserving and safeguarding the public health;

(11) for preventing the outbreak and spread of infectious or contagious diseases, for declaring what diseases are notifiable for compelling the notification of such diseases for compelling the removal of persons suffering from any such disease to suitable hospitals or places of segregation and their detention and treatment therein where, in the opinion of the medical officer of health, such removal, detention and treatment are necessary either for the protection of the public health or by reason of the insufficiency or unsuitability of the patients' lodging or accommodation, for regulating and enforcing quarantine and the disinfection of persons, places or things, and for authorizing the seizure and detention and ensuring the destruction (when necessary in the opinion of the medical officer of health) of articles which are infected or have been exposed to the risk of infection, upon payment of compensation to the owner thereof, such amount to be fixed by agreement or arbitration;

\* As amended by section nine of Ordinance No. 12 of 1941.

(12) for compelling the giving of any information or the production of any documentary or other evidence required for the purpose of tracing the source and preventing the spread of infection, for requiring the closing of schools or trade premises or places of public entertainment or any place where members of the public congregate which are suspected of being or are likely to become sources of infection, and for prohibiting persons who are or are suspected of being or are likely to become infected from carrying on any trade or business or engaging in any occupation which may cause the spread of an infectious or contagious disease;

(13) for requiring any person arriving in the municipality within fifteen days of leaving any district infected or suspected of being infected with plague, cholera, or yellow fever or within fifteen days of landing in South Africa from any ship or aeroplane so infected or suspected of being so infected, or from any ship or aeroplane which has within ten days prior to his landing cleared from or touched at any port so infected or suspected of being so infected to report to the medical officer of health his name and place of residence within the municipality;

(14) (a) for prohibiting and preventing the introduction into the municipality, the possession, sale or offering for sale for the purpose of human consumption or the handling (otherwise than for the purposes of destruction) of diseased animals, diseased meat, fish, or other articles of food or drink unfit for the use of man;

(b) for authorizing the seizure and ensuring the destruction (when necessary in the opinion of the medical officer of health) of any meat, fish or other article of food or drink which is diseased, unsound, unwholesome or unfit for the use of man;

(c) for permitting at the owner's risk such treatment in lieu of destruction of any diseased, unsound or unwholesome article of food as may render the same fit for the food of man;

(d) for authorizing the seizure and ensuring the destruction of diseased animals when certified to be necessary by a veterinary surgeon employed or approved by the Union Department of Agriculture;

(e) for ordering the detention pending examination or inquiry of animals or articles of food or drink;

(f) for prescribing standard of composition, strength or quality, and for preventing the adulteration, misdescription or reduction below a prescribed or, where none has been prescribed, a proper standard and securing the sale in a pure state and in a condition which conforms with such standard of any article of food or drink; and

(g) for authorizing the council by its officers or servants to inspect and examine any animal, article or package and to cut into any dead animal or any article or package and to purchase samples and requiring the sale of samples for the purposes of this sub-section;

(15) for prohibiting, regulating, inspecting, supervising and licensing noisome and offensive trades, and compelling residents to keep their premises free from offensive or unwholesome matter;

(16) for regulating, inspecting or supervising the work or trade of manufacturing flock from rags and for prohibiting the sale and use for the purpose of the manufacture of articles of unclean flock manufactured from rags and for requiring persons establishing or carrying on such work or trade to obtain a licence from the council for the purpose of so doing;

(17) for prohibiting, regulating, inspecting, supervising and licensing the work or trade of disinfection or fumigation by cyanide or other means and for penalizing persons who after notice thereto refuse without reasonable ground to vacate any room or rooms occupied by them in any building where fumigation by cyanide or other means is being carried out, and for the cancellation of licences granted to fumigators in cases where the licensee upon conviction for any offence has been proved to have been negligent, careless or incompetent in or at his work or trade aforesaid;

(18) for regulating and prohibiting the establishment or the carrying on of any trade, business, or calling which may, in the opinion of the council, be or be likely to become a source of serious nuisance, discomfort, or annoyance to the neighbourhood, provided that by-laws hereunder shall not extend to the prohibition of any trades or businesses lawfully established at the time of promulgation of the by-laws;

(19) for defining streets or areas within which shops, warehouses, factories, or business premises may not be erected or within which specified trades, businesses, or callings, or street trading may not be established or carried on, provided that by-laws hereunder shall not extend to shops, warehouses, factories or business premises erected or in course of erection or to trades or businesses lawfully established at the time of the promulgation of the by-laws;

(20) (a) for regulating, inspecting, supervising and licensing all businesses, factories, and workshops which by reason of smoke, fumes, gases, dust, smell, noise, vibration, or other cause may be or become sources of danger, discomfort, or annoyance to the neighbourhood; for prescribing the conditions subject to compliance with which such businesses, factories, or workshops shall be carried on and for prohibiting the carrying on thereof unless the prescribed licences shall have first been obtained and the prescribed conditions complied with;

(b) for compelling the covering of floors behind counters in shops with suitable material where in the opinion of the medical officer of health this is desirable in the interest of the health of employees;

(c) for compelling, regulating and inspecting the provision of adequate rest room, washing and lavatory facilities in premises, other than factories as defined in the Factories Act 1918, according to the nature of the premises and the number of employees thereon;

(21) (a) for regulating, inspecting, supervising and licensing the killing of cattle and other animals and the sale of butchers' meat, and for the establishment and localization of slaughter-houses and meat shops and their maintenance in a cleanly and proper state and for authorizing the entry on and inspection of slaughter-houses and meat shops and the cattle, carcasses, and meat therein and to regulate the entry of the police and the inspection of skins, and to provide for a minimum period for which skins must be kept and be available for inspection after the killing of any animals;

(b) for prescribing the conditions subject to compliance with which any bread, cakes, pastries and confectionery (hereinafter in this paragraph referred to as bakery products) produced or prepared outside the municipality may be introduced, distributed, stored, sold or used within the municipality and for prohibiting the introduction, distribution, storage, sale or use within the municipality of such bakery products in respect of which such conditions are not complied with;

(22) for regulating the use and management of municipal slaughter-houses and depots for the inspection of milk and dead meat and the making of charges in connexion therewith and for prohibiting the slaughtering of animals intended for the food of man elsewhere in the municipality than in municipal slaughter-houses, except in the case of animals which the occupier of any premises may slaughter for his own or his family's consumption;

(23) (a) for inspecting, supervising, regulating and controlling, hotels, eating, boarding, and lodging houses, bakeries, butchers' shops, grocers' shops, fresh produce dealers and all factories and places where articles of food or drink are manufactured or prepared for sale or use, or stored and sold and for fixing the fee or duty to be paid in respect of registration, inspection and supervision of any such business or trade;

(b) for licensing such of the above trades or businesses as do not require a licence under the provisions of the Licences Consolidation Act 1925 or any amendment thereof, for prescribing the procedure to be followed in applications for such licences and for fixing the fee to be paid in respect of such licence, provided that in any case where the council issues a licence the fee charged shall include the fee or duty in respect of registration, inspection and supervision;

(24) (a) for licensing, supervising and regulating purveyors of milk, and ice cream makers or vendors and for licensing, inspecting, supervising and regulating dairies, milkshops, and cowsheds; for regulating the conveyance and distribution and securing the identification of the source of milk or milk products distributed, offered for sale, or sold within the municipality; for prescribing the conditions subject to compliance with which any milk or milk products produced or prepared within or outside the municipality may be introduced, distributed, stored, sold or used within the municipality, and prohibiting the introduction, distribution, storage, sale, or use within the municipality of milk or milk products in respect of which such conditions are not complied with; for enabling the council to certify the quality of any milk and prohibiting the unauthorized use of any terms employed by the council in denoting such quality; for prohibiting the introduction, distribution, storage, sale, or use within the municipality of any milk or milk products from any source within or outside the municipality when it appears to the council or a committee thereof on the certificate of the medical officer of health that the consumption of such milk or milk products is likely to cause the outbreak or spread of disease;

(b) for prohibiting the purveyance of milk except from fixed premises within the municipality;

(25) for prohibiting the sale of tuberculous milk for providing for the veterinary inspection of milch cows within the municipality and for requiring from time to time in respect of any milch cows from which is

obtained milk or from the milk of which is prepared any milk product for introduction, distribution, storage, sale or use within the municipality the production of a certificate of a veterinary surgeon, approved by the Principal Veterinary Surgeon, Transvaal, showing that such cows have been tested by the tuberculin test and are free from tuberculosis; provided that such certificate shall not be required in respect of any milch cow unless there is reasonable ground for suspecting that such cow is infected with tuberculosis or has been in contact with cattle so infected;

(26) (a) for inspecting, supervising, regulating and controlling the various classes of refreshment shops (as defined in section *ninety*) and for making different regulations for such shops according to the class and volume of business carried on;

(b) for inspecting, supervising, regulating and controlling non-European refreshment shops (defined as aforesaid), for making different regulations for such shops according to the class and volume of business carried on and according to the race of persons frequenting such shops and for prohibiting the employment or presence of white females in such places or in any house part of which is licensed for such purpose, subject to the relaxation or removal of such last-mentioned restriction in the discretion of the council on any occasion;

(c) for prohibiting, regulating, licensing, inspecting and supervising non-European clubs outside native locations or similar associations, institutions or bodies subject to the restriction and relaxation or removal of the restriction mentioned in the preceding paragraph;

(27) (a) for restricting, regulating, supervising and controlling pedlars, hawkers and street vendors of articles of food and drink, including the prohibition of trading otherwise than in specified areas or at allocated stands or at specified times; where stands are allocated at which such trading is allowed to the exclusion of other places it shall be sufficient notice if notices are put up in such places;

(b) for regulating and controlling the sale in public places of live poultry and live animals including the construction and maintenance of vehicles and crates and the supply of food and water to poultry in transit;

(28) for regulating or preventing the washing of clothes on public or private premises and licensing and supervising persons for washing and laundry work for the inhabitants of the municipality provided that if the council so by resolution decides no fee shall be charged for a licence where washing and laundry work is carried on by or under the auspices of a religious or charitable institution, and for regulating and licensing (but without charging any fee therefor) premises or places outside the municipality (hereinafter referred to as outside laundries) at which articles are washed for inhabitants of the municipality and for preventing the introduction into the municipality of any articles as aforesaid unless the outside laundries at which they were washed have been licensed by the council and for licensing and supervising (but without charging any fee therefor) persons for washing and laundry work at such outside laundries;

(29) for prohibiting the use by white persons for dwelling purposes of premises or yards occupied by natives, Asiatics or coloured persons;

(30) for securing the prevention and destruction of rats and other vermin within the municipality and for enabling the council to set traps or to take other measures on any premises necessary for this purpose, and for prohibiting interference with such traps or other measures;

(31) for prohibiting or regulating the laying down and use of poison whether in public places or on private premises for the purpose of the destruction of animals or vermin and for charging fees for any inspection by the council's officers or servants in connexion therewith;

(32) for securing the prevention and destruction of locusts and other noxious insects within the municipality and for the prevention and abatement of agricultural pests and for the supply of poison and appliances for the aforesaid purposes;

(33) for the prevention and abatement of conditions permitting or favouring the breeding of mosquitoes or flies;

\* (34) for licencing, controlling, regulating and supervising crematoria and for setting aside crematoria or portions of or places in crematoria for the cremation therein of white persons, persons of different religious denominations, natives, asiatics or other coloured persons;

(35) (a) for regulating the supply and distribution of any water under the control or management of the council, for making charges for the use of water from water-furrows, and for compelling owners or occupiers to maintain in good order water-furrows traversing or abutting on their premises;

(b) for preventing the waste, undue consumption, misuse, or contamination of such water and for prescribing the size, nature, materials, workmanship

\* As amended by section *nine* of Ordinance No. 12 of 1941.

and strength and the mode of arrangement, connection, disconnection, alteration and repair of pipes, meters, cocks, ferrules, valves, soil-pans, water-closets, baths, cisterns and other apparatus (in this paragraph referred to as "water-fittings") to be used and for forbidding any arrangements and the use of any water-fitting which may allow or tend to waste, undue consumption, misuse, erroneous measurements or contamination;

\* (36) for the provision by the council of water meters, for fixing charges for water according to meter which may vary according to locality nature of user or class of consumer and for determining the area in which such meters shall be installed and for compelling consumers of water to provide suitable places within their premises in which to fix such meters;

(37) for preventing the pollution of any water which the inhabitants have a right to use;

(38) for preventing the pollution of catchment areas, rivers, canals, springs, wells, reservoirs, filter beds, water purification or pumping works, tanks, cisterns or other sources of water supply or storage the water wherein or wherefrom is used or is likely to be used by man within the municipality for drinking or domestic purposes;

(39) for compelling the provision of a proper and sufficient water supply for every dwelling-house, school, store, factory, or workshop;

(40) for compelling owners of premises which, in the opinion of the council, are not provided with a sufficient supply of good and wholesome water for drinking and domestic purposes to take such a supply from any pipe or main belonging to the council or that is within reasonable distance of such premises;

(41) for prohibiting subject to the payment of compensation in respect of existing boreholes or wells the use of water from, or the provision or sinking of, any borehole or well on any premises in cases where it can be proved to the satisfaction of the magistrate that such use, provision, or sinking prejudicially affects or diminishes or is likely so to affect or diminish any municipal water supply;

(42) (a) for regulating the construction, alignment, height and elevation of all buildings or other structures and all parts thereof and all materials used therein and compelling the pulling down, removal, or rendering safe of all buildings, walls, bridges, earthworks, stoeps, verandahs, or other structures of an unsafe or dangerous character, or which have been allowed to fall into a dilapidated and ruinous condition, and for doing such work at the cost of the owner;

(b) for prohibiting or regulating the erection or use of back-to-back tenements or houses and for ensuring sufficient air space and ventilation between houses and adequate through ventilation within houses;

(43) (a) for prohibiting the owners or occupiers of any premises from allowing any wells or other excavations thereon to be in an unprotected or dangerous state, for compelling the fencing, filling in or covering over of wells or excavations which are in such a state and for doing such work and recovering the cost thereof;

(b) for requiring all holes, wells, pits, excavations, ponds and the like in any premises not effectively fenced or enclosed to be filled in or to be adequately protected;

(44) for regulating, controlling, or prohibiting the use and erection of any temporary or movable structures whether standing on wheels or otherwise, and for prohibiting or restricting the use of tents or similar structures for business or dwelling purposes;

(45) for preventing the discharge of any guttering or down-pipes on to any footway, pavement or side-walk and securing, regulating, and controlling the laying down of pipes to carry any outflow therefrom to such gutter or drain as may be authorized or approved by the council for the purpose and for empowering the council to compel the owner of any premises from which such discharge takes place to lay down such pipes as the council may determine for carrying such outflow to such gutter or drain and for empowering the council to carry out any such works at the expense of the owner after notice has been given to him to do so and he has remained in default for a specified period after service of such notice;

(46) for regulating the size or number of buildings which may be built on any erf or plot or portion thereof, for prescribing with due regard to the local conditions of different parts of the municipality the extent and disposition of the open space on private land to be provided and maintained in connexion with new buildings in order to secure proper visibility for traffic at street intersections, proper sanitary conditions, amenity, and convenience in connexion with the laying out and use of land in the locality in which such buildings are erected and for prohibiting the erection of buildings on any open space so provided;

\* As amended by section *nine* of Ordinance No. 12 of 1941.

(47) for preventing the erection of buildings on ground contaminated by any faecal, animal, or vegetable matter;

(48) for requiring and regulating the lighting and cleansing of staircases and passages used in common by different tenants of the same buildings and the cleansing, drainage and paving of courts, yards, and open spaces used in connexion with dwellings;

(49) (a) for prescribing the frontage lines, securing the regularity of lines and level of buildings and of the architecture of buildings and the removal, alteration and prevention of projections or obstructions in front of buildings;

\*(b) subject to the provisions of the Factories, Machinery and Building Work Act, 1941 (Act No. 22 of 1941) and any regulations made thereunder for compelling and regulating—

(i) the provision of lifts for the delivery of goods—

(aa) in flats over four storeys in height, and

(bb) in buildings (other than flats) over four storeys in height and erected subsequent to the commencement of the Local Government Amendment Ordinance, 1943;

(ii) the provision of separate lifts for Europeans and no-Europeans in the flats and buildings referred to in sub-paragraph (i) of this paragraph.

(50) for enabling the council to prevent the alteration, erection or use of buildings the class or character of which are either in themselves or from the circumstances or nature of the locality in which they are placed, a disfigurement to the town or an annoyance to the inhabitants thereof;

(51) (a) for prohibiting the erection of any building deemed by the council to be or be likely to be objectionable or dangerous by reason of either the nature and/or construction of the building itself, or the uses to which it is to be put, or its environment;

(b) for enabling the council to prohibit and prevent erection of buildings of a dangerous, unsightly or objectionable character or of a class calculated to depreciate the values of surrounding properties;

(52) for regulating or prohibiting the use as a dwelling of any building not erected for that purpose;

(53) for enabling the council to prevent the sub-division or alteration of buildings or dwelling in such a manner as may be calculated to be injurious to health or to depreciate properties in the locality or to cause annoyance to the inhabitants of the neighbourhood;

(54) for prohibiting buildings or lands being put to uses calculated to depreciate neighbouring property or to interfere with the convenience or comfort of neighbouring occupiers;

(55) for regulating, restricting, or prohibiting the erection of hoardings or fences or of dwellings or structures of wood or wood and iron or canvas;

(56) for regulating the inspection of buildings and structures by the council and its officers, and for regulating the erection and use of scaffolding and hoarding during the construction, demolition, repair, or alteration of any building, and for charging fees in connexion with any such hoarding;

(57) for regulating or prohibiting the use of underground rooms for human habitation or occupation;

(58) for determining and regulating—

(a) the material and structure of walls, foundations, roofs, chimneys, windows, guttering, down-piping, and all other parts of buildings, whether new or already existing, in order to secure stability sufficient height, light, and ventilation, and the proper carrying off of rainwater, as well as for the prevention of fires and for purposes of health;

(b) the sufficiency of the space about buildings in order to secure a free circulation of air and the proper ventilation of buildings;

(c) the closing of buildings or parts of buildings unfit for human habitation and for the prohibition of their use for habitation or occupation;

(d) adequate provision for the escape of occupants of any building in the event of an outbreak of fire by way of ordinary or special doors, outside iron stairways, or other means, having regard to the size and use of the building;

(59) (a) for the giving of notice and the deposit of plans and sections by persons wishing to construct or alter buildings before commencing any such work, and for the approval or otherwise of all plans and sections of any such buildings or alterations by the council, and for charging fees in connexion therewith;

(b) for compelling the owner of any building erected without an approved plan or plans having been lodged, to lodge plans if the building is otherwise in accordance with the by-laws in force in the municipality, and for providing that it shall be a continuing offence for so long as he shall fail to lodge such plan or plans after notice has been given to him so to do;

\* As substituted by section four of Ordinance No. 19 of 1943.

(c) for requiring the owner of any building which in any respect does not comply with the by-laws to make such alterations and to do or cause to be done everything necessary to make such building comply and be in accordance with the by-laws and for providing that it shall be a continuing offence for so long as such owner fails to comply with such requirements after due notice specifying the requirements has been given to him;

(d) for empowering the council to remove, alter or demolish any building which does not comply with the building by-laws at the expense of the owner;

(e) for empowering the council to decide in its discretion in any particular case whether to enforce a by-law made under paragraph (c) or a by-law made under paragraph (d);

(f) for preventing the occupation of any new or altered building until a certificate of the fitness thereof for habitation shall have been issued and signed by the medical officer of health;

(60) for preventing the withdrawal, cancellation or alteration except with the consent of the council of any township plan which has been approved by the council, or the closing up of any streets, roads or open spaces shown on such plan except with the like consent;

(61) for preventing without the approval of the council or regulating the sub-division or cutting up of land or the sub-division of existing building lots into smaller areas, and for providing that no transfer of any such sub-division of land shall be registered in any deeds registry unless and until a certificate under the hand of the town clerk shall be produced to the registration officer that the council has approved of such sub-division; provided that by-laws hereunder shall not apply to the sub-division of land for the purpose of establishing a township thereon under the Townships Act;

(62) for providing for the due and proper care of the common pasture and other municipal land and for prohibiting or regulating grazing thereon and for prescribing the fees, if any, to be paid in respect of stock kept or depastured;

(63) for regulating, restricting or prohibiting subject to the provisions of any Proclamation issued under the Game Ordinance of 1935, or any amendment thereof, the shooting and hunting of game during the open season on municipal lands and for charging fees to persons permitted to shoot or hunt game on such lands;

(64) for regulating, restricting or prohibiting subject to the provisions of any Proclamation issued under the Fish Preservation Ordinance of 1921 or any amendment thereof, fishing during the open season in dams, water-courses, and other waters under the control of the council and for charging fees to persons permitted to fish therein;

(65) for granting permits to make bricks or to dig and burn lime or dig or remove clay, gravel, peat, or turf, or to quarry or crush stone or cut firewood, brushwood, or grass upon municipal lands, and for prescribing the fees (if any) to be paid for the same;

(66) for planting and preserving trees, flowers, and shrubs, and for prohibiting or regulating and controlling the planting of trees in public places and for maintaining, cutting, or removing any such trees and preventing the removal or injury thereof;

(67) for preventing or regulating and controlling the keeping of stallions, jackasses, bulls, rams, he-goats, boars, goats, swine, bees and of wild or dangerous animals within the municipality;

(68) for regulating the width, curbing, paving, guttering, gravelling and cleansing of roads and streets;

(69) for regulating the traffic and preventing and removing obstructions in or on public places; for dealing with live stock and dead, diseased, or injured animals found in any public place, and for restricting and regulating the driving of live stock through streets or other public thoroughfares;

\* (70) for regulating and controlling traffic, processions, and gatherings at in or on public places;

(71) for preventing any person or vehicle from carrying or conveying any article, burden, or load so as to obstruct or incommode passengers, pedestrians or vehicles in any public place, and for preventing the wheeling of wheelbarrows, cycles, or other vehicles on any side-walk or foot-pavement except for the purpose of crossing the same to or from any house or building;

(72) for preventing persons from congregating with others and so causing an obstruction in any public place except such as may be set apart for the purpose;

(73) for regulating street trading and licensing and supervising street traders, for prohibiting or restricting street trading by persons under the age of fifteen years and for prohibiting the causing, procuring, or allowing of persons under such age to engage in street trading contrary to the provision of any by-laws;

\* As amended by section *six* of Ordinance No. 11 of 1942.



(74) for regulating, licensing, supervising, restricting or prohibiting the playing of musical instruments or singing or gramphoning or performing for profit in or on any public place;

(75) (a) for regulating, supervising, and licensing porters, public carriers, carters, motor vehicle attendants, tram-cars, and public vehicles, and the drivers thereof, and for fixing the amount of licence fees to be paid, the charges and fare to be made by distance or by time within or outside the municipality and the number of passengers and the weight, dimensions, and nature of the loads to be carried and for enabling the council to endorse, suspend, or cancel any such licence; and for making it an offence for any passenger in any public vehicle to fail or refuse to pay the legal fare on demand, or to injure or damage any such vehicle wilfully or negligently; and for compelling the provision and use in public vehicles of such taxi-meters as may be prescribed by by-law and for providing penalties in the event of such taximeters being found defective; for testing taximeters and making charges therefor and for providing in the interests of the safety of the public for the periodical examination by an authorized officer of the council of public vehicles and for prohibiting the use of any vehicle as a public vehicle unless a certificate of efficiency under the hand of such officer has first been obtained by the applicant for a licence or by a licensee and for charging a fee for each such certificate;

(b) for prohibiting, restricting, regulating and controlling the parking of vehicles other than motor vehicles in any public place or in any portion thereof, and the giving effect to such prohibition, restriction, regulation or control by orders made by notices and signs posted in or placed on any such road or portion thereof. Such orders shall be passed by resolution of the local authority but shall not require to be published in any manner other than by means of the said notices and signs;

(76) for regulating, supervising and licensing separate public vehicles for the use of white persons and of natives or Asiatics or other coloured persons respectively and restricting the use of such public vehicles to such persons;

\* (77) (a) for regulating, controlling, and supervising the use within the municipality of all vehicles;

(b) for restricting the use within the municipality of bicycles, tricycles, road locomotives and traction engines;

(c) for prohibiting or restricting the use in certain streets or areas of—

(i) specified classes of vehicles, excluding traction engines but including bicycles, tricycles and road locomotives, or,

(ii) vehicles with specified types of wheels or tyres;

(d) for empowering the council to prohibit the use of traction engines within the municipality or any portion thereof;

(78) for licensing and supervising drivers of road locomotives within the municipality and for testing the efficiency of the applicants for such licences and prohibiting the driving of such vehicles by unlicensed persons and for enabling the council to endorse, suspend, or cancel any such licenses;

(79) for empowering the council to enter into reciprocity agreements with other councils whereby vehicles licensed in one municipality shall be recognized as licensed by the other contracting council, the licensing charge being the same in each such municipality; provided that where the boundaries of two or more municipalities are contiguous, a vehicle licence issued in one of such municipalities shall be recognized, in cases where the charges are the same, by the councils of such municipalities, and further provided that such licenses shall be issued by the local authority of the municipality in which the applicant for any such licence resides;

† (80) for licensing, registering, stamping and assigning identification marks or numbers to—

(a) vehicles belonging to persons resident within the municipality, and

(b) road locomotives and traction engines used within the municipality but the owners of which are not resident within the municipality; provided that for the purposes of htsi sub-section "vehicles" shall not include perambulators and the like and motor vehicles but shall include bicycles and tricycles;

(81) for regulating and controlling the conveyance of meat or dead animals through or along any public streets or public thoroughfares;

(82) for preventing the placing of articles on window sills or in any other position near any street in such a manner as is likely to cause danger or annoyance to passers-by;

(83) for prohibiting or regulating, and for inspecting, supervising and licensing the erection of wires of any kind in, along, under, or over any street or thoroughfare; provided that such wires as may be erected for public purposes by the Postmaster-General or the Railway Administration shall not be prohibited or regulated and no licence shall be required in respect thereof;

\* Substituted by section six of Ordinance No. 11 of 1942.

† Substituted by section six of Ordinance No. 11 of 1942.

(84) for regulating, inspecting, supervising, restricting, prohibiting, and licensing the display of advertisements or advertising devices in or in view of any street for prohibiting advertisements, devices, or pictures which in the opinion of the council are indecent or suggestive of indecency or prejudicial to public morals from being so displayed and for preventing the display of advertisements or advertising devices in such places or in such manner or by such means as in the opinion of the council would be likely to affect injuriously the amenities of or to disfigure any neighbourhood;

(85) for prohibiting, or regulating, and for inspecting, supervising and licensing the use and passage of advertising vans, sandwich boards, lanterns, flags, screens, or other movable advertising devices in or along any street or thoroughfare;

(86) for preventing the disfiguring of the fronts of buildings or fences, and for prohibiting, inspecting, supervising and licensing the use, or regulating the size, description, and fixing of sign-boards, screens, private lamps, sun blinds, or other devices attached to or connected with any buildings or fences, by means of which any advertisements or notices of any kind may be displayed;

(87) for regulating and controlling street decorations and for prohibiting, regulating, and controlling the erection and removal of temporary platforms, seats, and other structures for the use of the public at any meeting or entertainment, or for the accommodation of spectators at any procession, exhibition, ceremony or spectacular display of any kind;

(88) (a) for regulating and restricting the conveyance, removal, transport, manufacture, storage, use, sale and handling of inflammable liquids and substances. Inflammable liquids or substance shall mean any inflammable liquid or substance having a true flash point below 150 degrees fahrenheit. The method of testing flash points shall be as determined by the Administrator;

(b) for prescribing the routes and speed by which and the days and times when explosives or inflammable liquids may be conveyed;

(c) for preventing the dangerous or mischievous use in public places of gunpowder or other combustibles;

(89) (a) for prohibiting or regulating collections of money in public places for charitable or other objects and for prohibiting the employment of any person under the age of sixteen years in any such collections;

(b) for regulating, restricting or prohibiting the playing of gramophones and the use of loudspeakers or similar devices operated by electricity or otherwise for the purpose of advertising on or adjacent to any public place;

(c) for granting permission to use streets, pavements and sidewalks for the purpose of erecting thereon petrol pumps or devices for the supply of motor fuel oil air and water and for fixing a rent or charge for such use and the duration and conditions of such user;

(90) for establishing and regulating public markets and market dues, and for prohibiting the establishment of any market within the municipality without the permission of the council;

(91) subject to the provisions of any law relating to natives, Asiatics or coloured persons in urban areas for the setting apart for the exclusive use of natives or Asiatics or coloured persons or Europeans of any portion or portions of any municipal market place;

(92) subject to the provisions of Act No. 22 of 1925 or any amendment thereof for regulating public sales and for charging fees in connexion with public sales held on any public square or open space or in a public building;

(93) (a) for imposing a tax upon the keeping of dogs and for differentiation of such tax according to breed or sex and providing for the seizure, sale or destruction of ownerless or unclaimed dogs and of dogs in respect of which the tax has not been paid, and also for dealing with vicious, dangerous or diseased dogs and such as create disturbance by barking or otherwise, and prohibiting bitches in heat running loose in the street;

(b) for licensing and controlling dog kennels in the municipality and for prohibiting such establishments in or adjacent to residential areas;

(94) (a) for regulating the construction and maintenance of all installations for the supply of light, heat or power by means of electricity, gas or otherwise; and subject to the provisions of sub-section (4) of section eighty-three for prescribing conditions under which advances of money or material may be made to owners of land for the purpose of enabling or assisting them in the installation of plain wiring electric or gas fittings and articles in or at their premises;

(b) for prescribing conditions governing the hire of electric or gas fittings and articles to private consumers;

(95) for regulating lighting with gas, electricity or otherwise;

(96) for regulating and controlling the generation of acetylene gas, or other inflammable or explosive gas, and the construction and use of all apparatus connected therewith, and for preventing or regulating the storage of liquid acetylene, or carbide of calcium;

(97) for preventing and extinguishing fires and compensating the owners of buildings removed in order to prevent the spread of fires, and for regulating fire brigades, and the charges which may be made for the services of such brigades and for the water used at fires;

(98) for licensing, inspecting, supervising, controlling and regulating theatres, bioscopes, music halls, dance halls, public halls, concert rooms, public billiard rooms, and public bagatelle rooms and other places of public entertainment and for imposing conditions in any such licence restricting the days and hours during which the licensed premises may be kept open, and in the case of bioscopes, theatres, music halls, concert halls, and other places of public entertainment for any class or classes of non-Europeans, for prohibiting the employment or presence of white females in such places of public entertainment or in any house part of which is licensed for such purpose and on any occasion exempting in its discretion any such place from such last-mentioned restricting or prohibition or on any occasion, in its discretion, varying such restriction or prohibition;

(99) for licensing, inspecting, supervising and regulating the use of cinematograph and bioscope apparatus and appliances and for licensing the operators thereof, and for testing the efficiency of applicants for such licences and for regulating or prohibiting the keeping or storing of raw celluloid and cinematograph film and for prescribing the conditions under which such inflammable substances may be kept or stored on any premises;

(100) for establishing, regulating, inspecting, supervising and licensing public places of recreation;

(101) for preventing, regulating or restricting the singing or performing professionally of persons under the age of sixteen years in any place of public entertainment or recreation;

(102) for regulating, supervising and licensing wood-sawyers;

(103) for regulating, supervising and controlling pawnbrokers; for requiring the deposit of security by any person applying for a certificate in respect of a pawnbroker's licence and for regulating the sales of unredeemed pledges;

(104) for regulating, inspecting, supervising and controlling and, where any person carrying on such trade is not required to obtain a licence under the provisions of the Licences Consolidation Act 1925, licensing the trade, business or occupation of dealers in, buyers and sellers of second-hand goods and scrap metals including bottles, sacks, bones, paraffin and other tins and compelling dealers in scrap metals to keep books showing all purchases of such metals and prohibiting such purchases under a fixed weight and unless such dealers are satisfied that the sellers are *bona fide* owners of such metals;

(105) for regulating, supervising and controlling cycle dealers, manufacturers and repairers;

(106) for regulating, inspecting, supervising and licensing Turkish baths physical culture gymnasiums, swimming baths and bathing establishments and for prohibiting and regulating bathing in any open piece of water within the municipality;

(107) for regulating, inspecting, supervising and licensing boating establishments and for licensing boats whether kept for hire or otherwise, and for regulating the use of and fixing the number of persons to be carried in such boats;

(108) for regulating, supervising and controlling undertakers;

(109) for protecting from damage or interference any municipal works or property situated or being in under or over any public or other place within the municipality;

(110) for prohibiting, restricting or regulating the quarrying or excavation of stone, lime, clay or other material on any premises;

(111) for preserving and protecting wild animals and wild birds, their nests and eggs within the municipality;

(112) for prohibiting, restricting, and regulating the keeping of any wild animal or creature which has an inherent propensity to attack human beings or the keeping whereof is likely to become a nuisance or injurious to health or is fraught with danger to the inhabitants of the neighbourhood;

(113) for preserving public decency, for prohibiting the sale or exhibition of indecent literature, pictures and devices and for prohibiting the sale or exhibition of pictures and devices of the nude;

(114) for prohibiting or restricting the public exhibition by bioscope, cinematograph, magic lantern, or other mechanism, medium, or agency, or the public exhibition by tableaux, living pictures, bill posters, advertisements, or other illustration publicly displayed, of any prize fight or any

other pugilistic contest, or incident or incidents therein, or any such exhibition or representation or illustration as is contrary to good morals or public policy;

(115) for prohibiting or restricting the public exhibition within the municipality of monstrosities, freaks of nature, or any abnormal person or animal which in the opinion of the council it is undesirable to be publicly exhibited;

(116) for prohibiting mendicancy in any public place;

(117) for licensing, regulating and supervising cobblers;

(118) for regulating, supervising and licensing market agents;

(119) except where otherwise provided for fixing a fee not exceeding two shillings for each and every certificate issued by the council under this or under any other Ordinance;

\* (119) *bis*, subject to the provisions of section *thirty-three* for regulating and controlling the furnishing of information from any of its records and for prescribing the fees payable in respect thereof; provided that no such by-law shall have the effect of obliging the council to furnish any such information.

(120) for regulating and licensing market gardens and for preventing and restricting the use by owners, occupiers or cultivators of such gardens of fresh animal manure provided that no fee may be charged by the council for any such licence;

(121) for controlling areas laid out for coloured persons under sub-section (23) of section *seventy-nine* and the occupation of residential and business sites therein and for prescribing the charges payable in respect of such occupation and generally for the good rule and government of such area;

(122) except where otherwise provided or fixed in this Ordinance or any other law for fixing the licence moneys payable in respect of any matter, business, trade or occupation which the council is authorized to licence or the fees and duties payable in respect of any matter, business, trade or occupation which the council is authorized to supervise, regulate and control;

† (123) for prohibiting the keeping on any premises to which the public have access of any particular pin-table, slot machine or similar device, which has not been named or described in a notice issued under section *one* of the Gambling Amendment Act, 1939 (Act No. 5 of 1939) or of any pin-table, slot machine or similar device of any particular make or type, which has not been named or described as aforesaid provided that no such prohibition shall apply to any machine or device which is used solely for the *bona fide* sale of any article or commodity wherein the purchase price is paid by means of a coin or token inserted in the said machine or device; provided further that the council shall not make any by-laws for prohibiting the keeping of any particular pin-table, slot machine or similar device or any pin-table, slot machine or similar device of any particular make or type unless it is satisfied that the obtaining of benefits, rewards or prizes thereby or in connection therewith depends to some degree upon chance.

(124) for prescribing the manner in which any notice may be given or any document may be served;

(125) generally for the good rule and government of the municipality.

No such by-law shall be inconsistent with, contrary or repugnant to the provisions of this Ordinance or any other law in force within the municipality.

## PART II.—WORKS.

### Works for the Supply of Water.

81. The council may—

(1) establish, acquire, construct, equip, and carry on, within or outside the municipality, works for supplying water to the inhabitants of the municipality and (with the consent of the Administrator) to persons resident outside the municipality, and make such charges and impose such conditions of service for the supply of water as may be fixed by by-law or regulation; provided that before commencing to establish, acquire or construct such works the council shall obtain the consent of the Administrator;

(2) excavate, construct, and lay down within the municipality water-courses, water-furrows, water pipes, conduits, sluices, drains, dams, reservoirs, and other works for supplying, storing, and leading water, and close, alter, or divert any such works as may from time to time be necessary in the opinion of the council; provided that if the council close or divert any work for the supply of water and thereby any owner of private property is deprived of a water supply to which his property has been hitherto by

\* Added by section *six* of Ordinance No. 11 of 1942.

† As amended by section *nine* of Ordinance No. 12 of 1941.

law or right entitled, he may lodge an objection with the council and thereupon the council shall not proceed with the closing or diversion unless the consent of the Administrator has been first obtained;

(3) whenever necessary carry any water-furrows through and across any private property, provided that compensation be made by the council for any damage done thereby, the amount of such compensation in default of agreement being determined by arbitration in manner provided by the Municipalities Powers of Expropriation Ordinance, 1903 or any amendment thereof,

(4) make advances to the owner of any land of money or material for the purpose of enabling him to instal a water supply on his premises from municipal mains under such conditions as may be approved by the council. The provisions of sub-sections (2) to (6) of section *one hundred and forty-two* hereof shall *mutatis mutandis* apply to any advances made under this sub-section.

#### Supply of Water to Private Premises.

82. In any municipality the council of which carries on works for the supply of water to the inhabitants thereof no person shall construct any works for the supply of water to any premises without first obtaining from the council permission in writing to construct such works; provided however that such permission shall be granted by the council in all cases where the council is not itself willing and able to give a proper and sufficient supply of water to any premises at such price as may be fixed in its by-laws or approved by the Administrator, and provided further that nothing in this section shall prohibit the owner of any premises from constructing thereon any works or the supply of water to such premises.

#### Works for Supply of Light, Heat, and Power.

\*83. (1) Subject to the provisions of the Electricity Act No. 42 of 1922 or any amendment thereof, the council may establish, acquire, construct, equip, and carry on, within or outside the municipality, work for supplying light, heat, and power, and may supply electricity and gas for all purposes for which the same can be used, to or in respect of any land, building, or premises within or outside the municipality, and may make such charges and impose such conditions of supply as may be fixed by by-law or regulation; provided that before commencing to establish, acquire, or construct such works the council shall obtain the consent of the Administrator.

(2) A council, having established electric light or gas works under sub-section (1) hereof, may subject to the provisions of the Electricity Act, 1922 or any amendment thereof—

(a) supply electricity or gas to any corporation, company or person carrying on business or residing beyond the municipality with the consent of the local authority, if any, of the area in which the supply is given, and the provisions of this Ordinance as to the supply of electricity or gas to the inhabitants of the municipality shall, so far as may be applicable extend and apply to the case of such supply beyond the municipality;

(b) contract with the council of any adjoining municipality to supply electricity or gas to such council upon such terms and conditions as may be mutually agreed upon;

(3) (a) The council may sell (including sale against payment by instalments) electric lines, electric and gas fittings, apparatus or appliances to private consumers under conditions to be approved by the Administrator. The provisions of sub-sections (2) to (5) of section *one hundred and forty-two* hereof shall *mutatis mutandis* apply to any sales made under this section.

(b) The council may let electric or gas fittings and articles to private consumers for use in or at their premises.

(4) The council may make advances of money to any owner of land or consumer of electrical energy or gas within or without the municipality for the purpose of enabling or assisting him in the installation of plain wiring, electric or gas fittings and articles in or at his premises provided that any one advance hereunder shall not exceed one hundred pounds (£100) without the sanction of the Administrator, such sum to include the cost of the connection to the council's mains and every expence in connection therewith. The provisions of sub-sections (2) to (6) of section *one hundred and forty-two* hereof shall *mutatis mutandis* apply to advances made under this sub-section provided that the provisions of sub-section (3) of the said section shall not apply in the case of any such consumer who is not the owner of the land or premises in respect of which any advance was made.

#### To lay Pipes and Wire in Public Places and Private Property.

84. the council may—

(a) do all things necessary for the laying of main and branch wires

\* As amended by section *ten* of Ordinance No. 12 of 1941.

and lines of pipes to convey electric current, gas, or water underneath and over public places, and connect such wires or pipes with any premises at the request of the owners or occupiers thereof;

(b) after giving thirty days' notice in writing to the owner, lessee, or occupier of their intention, carry mains, pipes, wires and cables through, across, under or over any private land, within or outside the municipality, making compensation for any damage done the amount of compensation in default of agreement to be determined by arbitration in manner provided by the Municipalities Powers of Expropriation Ordinance, 1903, or any amendment thereof, and the council may cause such mains, pipes, wires, and cables to be laid, altered, deepened, covered, over-erected, and maintained within or outside the municipality, provided that if any owner, lessee, or occupier of land outside the municipality object to such work the provisions of sections *one hundred and thirty-eight* and *one hundred and thirty-nine* shall *mutatis mutandis* apply.

#### **Vesting of Pipes, Wires, etc., in Council Council's right of Access Inspection, etc.**

85. All mains, pipes, wires or cables laid by or on behalf and at the expence of the council or which are under its control shall be vested in the council and the council or any persons duly authorized by it shall at all times have a right of access to private property for purposes of inspection, maintenance, alteration or repair of such mains, pipes, wires, or cables, and may do all things necessary to uncover and expose such mains, pipes, wires or cables, for the purposes of such inspection, maintainance, alteration, or repair; provided that the council shall repair all damage caused by the exercise of its powers under this setion.

#### **Power of entry into Premises Supplied.**

86. Any officer appointed thereto by the council may at all reasonable times enter any premises to which electricity, gas, or water is or has been supplied by the council, in order to inspect the pipes, electric wires, lines, meters, accumulators, fittings, works, and apparatus for the supply of electricity, gas, or water belonging to the council, or for the purpose of ascertaining the quantity of electricity, gas, or water consumed or supplied, or whenever a supply of electricity, gas or water is no longer required, or whenever the council is authorized to take away and cut off the supply of electricity, gas, or water from any premises, or for the purpose of removing any pipes, electric wires, lines, meters, accumulators, fittings, works, or apparatus belonging to the council, all damage caused by such entry, inspection, or removal being made good by the council.

#### **Power to cut off Supply.**

87. If any person neglect to pay any charge for electricity, gas, or water or any other sum due to the council in respect of the supply thereof or in respect of any advances made under sub-section (4) of section *eighty-three* of this Ordinance, it may cut off such supply, and for that purpose may cut or disconnect any pipe, electric wire, line, or other work through which the electricity, gas or water may be supplied, and may, until such charge or other sum together with the cost incurred by the council in cutting off such supply of electricity, gas, or water, is fully paid but no longer, discontinue the supply thereof to such person.

#### **Penalty for Injuring Pipes or Wires.**

88. Any person who by negligence cuts or injures or with malicious intent cuts, injures or interferes with any wire, line, pipe, meter or other work used for the conveyance or measurement of electricity, gas or water and vested in the council as aforesaid, shall be guilty of an offence and liable upon conviction to make good the damage done by such injury, or to a fine not exceeding one hundred pounds, or to be imprisoned with or without hard labour without the option of a fine, for a period not exceeding two years.

## CHAPTER VII.

### PROVISIONS AS TO LICENCES AND BY-LAWS.

#### PART I.—LICENCES.

#### **Licensing Procedure.**

89. (1)The council may appoint committees for the purpose of hearing any application for a licence [including an application for a certificate under the provisions of the Licences (Control) Ordinance, 1931, or any emendment thereof] or may itself sit to hear such applications, and the mayor or the chairman of any committee so appointed as the case may be shall have power to summon any applicant for or any objector to the grant of a licence (by writing under his hand served on such person) to give evidence at any sitting of the council or a committee held for the purpose of hearing the application for such licence

or to produce books or documents at such sitting and any such person refusing or omitting without sufficient cause to attend and give evidence or to produce books or documents in his possession or under his control as required by such summons shall be guilty of an offence against this Ordinance; provided always that every person summoned under this section to give evidence or produce books and documents shall be entitled to all the privileges to which a witness summoned to give evidence or produce books or documents before the Supreme Court is entitled.

(2) All witnesses giving evidence before the council or a committee at the hearing of any application for such licences shall give evidence on oath which may be administered by the mayor or the councillor presiding.

(3) Any witness who shall after being duly sworn wilfully give false evidence at the hearing of any such application concerning the subject-matter of inquiry shall be guilty of perjury and shall be liable to be prosecuted and punished according to law.

(4) The council or the committee may cause and deposition taken before it on oath at the hearing of any such application to be taken down in writing and signed by the deponent and shall authenticate it by the signature of the mayor or councillor presiding as the case may be as having been taken at such hearing and every such deposition so taken down and authenticated shall on production and until the contrary is proved be deemed and taken to be good evidence in a prosecution for perjury.

#### Power of Council to Refuse Licences.

\*90. (1) The council shall have a discretion to grant or refuse a licence for any matter, trade, occupation or business which it has power to licence, provided that the Administrator may if he is satisfied that any licence has been refused solely on the ground that there are already a sufficient number of persons carrying on the trade, occupation or class of business in respect of which the licence is sought within a particular area, direct the Council to issue a licence to the applicant, and the Council shall thereupon issue such licence to the applicant.

(2) A council or committee may grant a conditional authority for any licence where premises in respect of which such licence is sought are not yet erected or, if already erected, require additions or alterations subject to the following provisions:—

(a) The provisions of this Chapter shall apply *mutatis mutandis* to the grant or refusal of a conditional authority for a licence;

(b) The grantee of such conditional authorities shall be entitled to the issue of a licence at any time within a period of six months from the grant thereof, or within such extended period as the council or committee may allow, on satisfying the council or committee that the premises have been suitably completed or altered.

(3) The council shall not grant a certificate under the provisions of the Licences (Control) Ordinance, 1931, in respect of a refreshment shop unless—

(a) such shop is carried on exclusively for the sale of any or all of the following articles, namely, food or refreshment for consumption in such shop, bread, fruit, sweets, confectionery, mineral water and other bottled beverages, ice cream, tobacco, cigars, cigarettes, matches, flowers and vegetables, and

(b) such shop is carried on in a room or rooms having no internal means of communication with any other shop, room or place in which goods other than those enumerated in paragraph (a) above are kept for the purpose of sale;

provided that this sub-section shall not apply to a refreshment shop which is closed for business not later than the normal hours prescribed for the closing of shops by section *three* of the Shop Hours Ordinance, 1923, or any amendment thereof, in which case it shall be an offence if any such shop remains open beyond such normal closing hours.

For the purposes of this sub-section the expression "refreshment shop" shall mean and include a restaurant, tearoom, café, confectionery, soda fountain, fruiterer's and greengrocer's shop.

#### Renewal of Applications for Licences.

†90*bis*. Whenever a council has refused an application for a licence for any trade, occupation or business it shall not consider a further application from the same applicant in respect of the same premises for the same type of trade, occupation or business until after the expiration of a period of six months from the date of such refusal. The provisions of this section shall apply *mutatis mutandis* in respect of any application for a licence for any trade, occupation or business for which fixed premises are not required.

\* As amended by section *eleven* of Ordinance No. 12 of 1941.

† Added by section *five* of Ordinance No. 19 of 1943.

**Power of Council to Refuse Licence to Premises and Traders.**

\*91. The council shall refuse a licence or renewal thereof, as the case may be, in respect of any premises as a theatre, music hall, dance hall, public hall, concert room, or other place of amusement or to licence any person as a driver of a public vehicle, street trader or person carrying on the trade of fumigation if—

(a) the applicant has failed to produce satisfactory evidence of good character;

(b) the premises in respect of which a licence is sought or any adjacent premises owned or occupied by the applicant are frequented by persons of bad character;

(c) the granting of such licence would be contrary to the public interest;

(d) the business is conducted in an unclean and insanitary manner, or in a manner inimical to public health;

provided that if any such licence or the renewal thereof is refused by the council in terms of paragraph (c) of this section, the Administrator may if he is satisfied that such licence or the renewal thereof has been refused solely on the ground that there are already a sufficient number of persons carrying on the trade, occupation or class of business in respect of which the licence or renewal thereof is sought within the particular area direct the council to issue the licence or to renew the same and the council shall thereupon issue the licence or renew the same.

**Power of Council to Grant certain Licences upon certain Conditions.**

92. The council may in respect of a licence which it may grant under its by-laws—

(a) impose conditions prohibiting or restricting the employment on premises, where articles of food and drink are sold, of females under the age of sixteen years, or the employment on such premises of females after eight o'clock at night;

(b) impose conditions as to the persons who by reason of their condition of life, habits or health shall be restricted in or prohibited from the preparation or handling of such articles of food and drink in connexion with any such trade or business as aforesaid;

(c) impose conditions prohibiting the employment in the licensee's business of any person who has within the preceding three years been convicted three times of contravening a law, by-law, or regulation in force in any municipality as regards the conduct of the trade for which the licence is granted;

(d) impose conditions prohibiting the licensee, his servants, or any other person from residing in any shop or premises in on or from which is carried on any such trade or business as aforesaid;

(e) impose conditions defining and limiting the class of business to be carried on in the premises in or on which the applicant intends to carry on his trade or business on conditions in respect of such premises;

(f) impose any other conditions which may be prescribed by by-law;

provided that the conditions imposed by the council under this section shall be clearly endorsed upon the licence and the licensee shall sign a duplicate of the form of licence containing such conditions. The council shall retain the duplicate so endorsed and signed and the same shall, when produced before any court of law, be *prima facie* evidence of the conditions imposed; any breach by a licensee of any condition imposed in respect of his licence under this section shall be deemed to be an offence against this Ordinance.

**Power of Council to Refuse certain Licences at Discretion.**

93. Anything to the contrary in this Ordinance notwithstanding, the council may, in its discretion refuse to grant licences to the hauler of any jinricksha or to the driver of any road locomotive, traction engine, tramcar, or public vehicle or to any applicant for a licence who is medically or physically unfit or who has failed to pass any test of efficiency or to deposit any security prescribed by by-law.

**Penalty on Conviction for Contravention of Law or Council's By-laws relating to Licences.**

94. On the conviction of any person holding a trade licence granted by the council for any contravention of the Liquor Act, No. 30 of 1928, or any amendment thereof or for contravening the law or the council's by-laws either in the conduct of such trade or on the premises on which such trade is carried on or for breach of the lawful conditions upon which such licence was granted, the magistrate's court before which such person was convicted may upon application made within seven days after such conviction either on behalf of the council or of the Attorney-General of the Province endorse, suspend, or cancel his licence and order that no new licence to carry on such trade

\* As amended by section *twelve* of Ordinance No. 11 of 1941 and section *seven* of Ordinance No. 11 of 1942.



within the same municipality be granted to such person for a period not exceeding two years from the date of the cancellation, and thereupon such person shall become disqualified to hold a licence during the period of suspension or cancellation; provided that if a trade licence granted to any company or partnership or to any person on behalf of a company or partnership is cancelled or suspended, any disqualification to hold a licence which may be imposed hereunder may be attached either to such company or partnership or to any person who under any law was responsible for the offence in respect of which the order of suspension or cancellation is made, or both to the company or partnership, and such person as the magistrate's court making the order may determine.

#### Licensing of Offensive Trades.

95. (1) No person shall carry on within the municipality a malt factory or the work of a knacker or of blood boiling, bone boiling, soap boiling, tripe boiling or cleaning, tallow melting, fat melting, or fat extracting, fell-mongering, skin storing, skin curing, blood drying, gut scraping, fishmongering, fish frying, leather dressing, tanning, glue-making, size-making, charcoal burning, brick-burning or lime-burning, manure making, manure storing, bone storing, or any other work or trade of an offensive nature which, with the sanction of the Administrator, the council may add to the above list, without having first obtained from the council a licence for the purpose.

(2) any person who shall carry on any such work or trade without having obtained the necessary licence from the council shall be liable to a penalty not exceeding fifty pounds, and to a further penalty not exceeding two pounds for every day during which such offence shall continue after notice to cease such offensive work or trade has been served on such person by the council by personal delivery or by registered post or by leaving the same at his office, place of business or dwelling.

(3) Before considering any application for any such licence as is mentioned in this section the council may require the applicant to pay the cost of advertising full particulars of his application in such a manner and for such period as the council may think fit.

\*(4) The council shall refuse to grant any such licence as is mentioned in this section if-

(a) the premises used or proposed to be used by the applicant for the work or trade for which the licence is sought are unsuitable for the purpose;

(b) the methods adopted or proposed to be adopted by the applicant for preventing noxious or offensive vapours, gases, or smells arising from such work or trade are not efficient.

#### PART II.—BY-LAWS.

##### How By-laws to be made.

†96. No by-law shall be made, amended or revoked by the council until a copy of the proposed by-law or amendment or resolution for the revocation be deposited at the office of the council for inspection by any person at all reasonable times, and a notice be published in the *Provincial Gazette* and in a newspaper circulating in the municipality and affixed to the principal door of the council's offices, or on the principal notice board twenty-one days prior to the meeting of the council held for the purpose of making such by-law or amendment or revoking such by-law setting forth its general purport and stating that a copy of the by-law, amendment or resolution for the revocation is open to inspection as aforesaid.

##### Procedure to be followed in case of By-laws affecting any Mining Company.

97. Where any proposed by-law affects any mining company in respect of the management of its mining operations or the control of the property on which such operations are carried on, the following procedure shall be followed:

(a) the proposed by-law as passed shall be transmitted by the council to all the companies engaged in mining operations within the municipality, or to any association representative of such companies;

(b) if any such company or association desires to object to such by-law on the ground that the interests of any mining company would be unduly prejudiced thereby it shall transmit to the council a statement of its objections within a period of fourteen days from the date on which the by-law was received by it from the council;

(c) on receipt of such statement within the time specified the council shall, in submitting the by-law to the Administrator for approval transmit for the consideration of the Administrator a copy of such statement together with a statement of the observations (if any) which it may desire to make thereon;

(d) the Administrator shall refer the proposed by-law together with the statement hereinbefore mentioned to the Minister of Mines for report before approving or rejecting it;

\* As amended by section *eight* of Ordinance No. 11 of 1942.

† As amended by section *thirteen* of Ordinance No. 12 of 1941.

(e) the foregoing procedure shall be followed in any case where in the course of the discussion upon any by-law by the council a motion shall be proposed and seconded that it be so dealt with.

**Submission of Draft By-law for approval of Administrator.**

98. After any by-law has been made or amended by the council, such by-law or the amendment thereof shall be submitted to the Administrator who before approving it shall satisfy himself that the provisions of sections *ninety-six* and *ninety-seven* have been complied with, and that the provisions of the by-law are not inconsistent with contrary or repugnant to the provisions of this Ordinance or any law or regulation in force within the municipality.

**Power of Administrator to Approve or Reject By-law when submitted.**

99. The Administrator may approve, alter or reject any by-law or amendment as he may think fit.

**Town Clerk to submit copies of Minutes concerning Draft By-laws to Administrator.**

100. Together with copies of all by-laws or amendments of by-laws submitted for the approval of the Administrator under the last preceding section the town clerk shall submit to the Administrator—

- (a) a copy of the minutes of the meeting of the council at which the by-law or amendment was adopted;
- (b) a certificate by the town clerk that the provisions of section *ninety-six* and, where necessary, of section *ninety-seven* have been complied with;
- (c) copies of any objections against the adoption of the by-law or amendment that may have been lodged, in writing, with the town clerk, or, if none have been lodged, a statement to that effect.

**Promulgation of By-laws Approved.**

101. Upon the approval by the Administrator of a by-law, or an amendment thereof by the council (with or without alterations and amendments made by the Administrator), the Administrator shall cause a copy of the by-law or amendment so approved to be transmitted to the town clerk and a copy of the by-law or amendment so approved shall be published by the Administrator by a notice in the *Provincial Gazette* and by the town clerk by a notice affixed either to the principal door of the offices of the council or to the municipal notice board, and signed by the mayor or two councillors and by the town clerk. The Administrator may from time to time make charges for publishing in the *Provincial Gazette* any such by-law or amendment or any regulations under section *twenty-three* (3) of the Natives (Urban Areas) Act, 1923, as amended, or any amendment of such regulations provided that such charges shall not exceed six shillings per inch across the page (double column). All charges made hereunder shall upon demand be paid to the Administrator by the council concerned.

Such by-law or amendment thereof shall have the force of law within the municipality from and after the date of its publication in the *Provincial Gazette* unless expressly otherwise provided in the notice under which it is published.

**Proof of Publication of By-law.**

102. A copy of the *Provincial Gazette* containing a notice publishing any by-law or amendment thereof under the provisions of the last preceding section shall on production in all legal proceedings, until the contrary is proved, be evidence that such by-law or amendment thereof has the force of law within the municipality in respect of which it has been made and approved as aforesaid.

**By-laws Open to Inspection and Copies Obtainable.**

103. Copies of the *Provincial Gazette* containing by-laws and amendments thereof approved by the Administrator as aforesaid and of all regulations and amendments thereof shall be open to inspection at the offices of the council at all reasonable hours.

It shall be the duty of the town clerk upon application, and upon payment of such sum as may be determined by the council (not exceeding threepence for every hundred words contained in such by-law or regulation or ten shillings in all), to furnish any person with a copy of every such by-law, regulation or amendment.

**Power of Administrator to Revoke By-laws.**

104. The Administrator may in his discretion at any time after having given the council concerned reasonable notice and his reasons therefor and after having heard such council revoke, alter, or amend any by-law, and such revocation shall be notified to the council by the Administrator who shall

in addition publish a notice in the *Provincial Gazette* and in a newspaper (if any) circulating in the municipality, notifying such revocation, alteration, or amendment and the council shall cause a notice thereof to be affixed to the principal door of the magistrate's court-house and to the offices of the council.

**Powers to Impose Penalties for Breach of By-laws.**

105. Any by-law may provide a fine or other penalties for any breach thereof and may also provide for different fines or other penalties in case of successive or continuous breaches, but no fine shall exceed fifty pounds. Any such by-law may further provide that in addition to such fine, any expense incurred by the council in consequence of a breach of any by-law or in the execution of any work directed by any by-law to be executed by any person and not executed by him, shall be paid by the person committing such breach or failing to execute such work.

**Penalties where not otherwise Provided.**

106. All offences against any regulation or by-law in force in the municipality shall be deemed to be offences against this Ordinance and every person guilty of such an offence or of a contravention of any of the provisions of this Ordinance shall for every such offence, be liable to the penalty expressly imposed by the regulation or by-law or by this Ordinance, and if no penalty be imposed then to a fine not exceeding ten pounds.

**Recovery of Fines.**

107. All fines or other moneys payable in respect of any offence against this Ordinance, or any regulation, or any by-law, may be recovered before any court of competent jurisdiction.

**Default of Payment of Fine.**

108. Save as in this Ordinance is otherwise expressly provided, whenever any fine shall have been imposed under the provisions of this Ordinance or of any regulation, or of any by-law, and the person convicted shall not forthwith pay the same, the court imposing the fine may direct that such person be imprisoned with or without hard labour for a period not exceeding one month, if the fine imposed do not exceed five pounds, or for a period not exceeding three months if the fine imposed exceed five pounds, and such person shall be imprisoned as aforesaid unless he shall sooner pay such fine.

**Application of Fines and Defrayment of Cost of Prosecution.**

109. Every fine recovered for an offence against a by-law or regulation or for any other offence against this Ordinance or any bail forfeited for the failure of any person charged with such offence to appear to answer such charge, shall be paid into the revenue of the council; provided that the magistrate convicting in all cases of contraventions of by-laws or regulations may in addition to any fine or other penalty prescribed order the defendant to pay such costs as he may consider reasonable.

**Obstructing Officers of the Council.**

110. The following persons shall be liable to a fine not exceeding ten pounds or to imprisonment with or without hard labour without the option of a fine for a period not exceeding three months—

- (1) any person who wilfully obstructs any councillor or any person duly employed by the council in the execution of his duty;
- (2) any occupier of premises who prevents the owner of such premises from complying with any lawful requirement of the council;
- (3) any occupier of premises who on demand refuses, or wilfully omits to disclose, or wilfully misstates his own name or the name of the owner of such premises;
- (4) any person who refuses to answer to the best of his ability or knowingly makes false answers to inquiries made by the medical officer of health or any sanitary inspector specially authorized by him in writing for the purpose of discovering cases of any infectious disease or possible sources of infection of any such disease.

**Council's Power to Prosecute.**

111. The council may by any person authorized thereto in writing under the hand of the mayor or town clerk prosecute summarily in the magistrate's court for all offences against this Ordinance or any by-law or regulation; and the provisions of any law relating to prosecutions by private persons in such court shall apply to all such prosecutions.

**Persons making Complaints of Nuisances.**

112. Any person aggrieved by the existence of a nuisance under this Ordinance or any by-law or regulation made under this Ordinance on any

premises within the area of jurisdiction of a local authority may give notice thereof to the local authority concerned and if the said local authority fails within a reasonable time to cause such nuisance to be removed, such person may himself cause any necessary notice to be given to the owner or occupier of the premises on which the nuisance exists and may thereafter make a complaint to the magistrate of the existence of the said nuisance and the provisions of section *one hundred and twenty-eight* of the Public Health Act, 1919 shall apply *mutatis mutandis* to the said complaint.

**Provision for Affixing to Premises Notice re Conviction for sale or Possession of diseased Animal or unsound Food.**

113. Where any person is convicted for a second time within a period of twelve months of having contravened a by-law by selling or exposing for sale or depositing for the purpose of sale or of preparation for sale or having in his possession any animal or article (whether liquid or solid) intended for human consumption which is diseased or unsound or unwholesome or unfit for human consumption, the magistrate may, if he thinks fit, and finds that such person knowingly or wilfully committed both offences, in addition to inflicting any other penalty order that a notice of the facts be affixed in such form and manner and for such period not exceeding twenty-one days as may be specified in the order to any premises occupied by such person and that the person do pay the costs of such affixing; and if any person obstructs the fixing of such notice or removes, defaces, or conceals the notice while affixed during the said period he shall for each offence be liable to a fine not exceeding ten pounds (£10).

CHAPTER VIII.

VILLAGE COUNCILS.

PART I.—CONSTITUTION OF VILLAGE COUNCILS.

**Constitution of Village Councils.**

\*114. (1) The village councils lawfully established under any prior Ordinance and mentioned in the Fourth Schedule to this Ordinance, shall be deemed to be village councils constituted under this Ordinance, with jurisdiction over the areas existing and defined as at the commencement of this Ordinance and the provisions of section *eight* of this Ordinance shall *mutatis mutandis* apply to such councils.

(2) For the purpose of establishing a village council for any other town, village, or area (not being a municipality), or for establishing a village council in the place of a town council or health committee for any area, or for exercising in respect of a village council such other powers as are conferred by section *nine* of this Ordinance, the provisions of sections *nine* to *fourteen* inclusive of this Ordinance shall *mutatis mutandis* apply.

(3) The provisions of paragraph (b) of section *seven* shall apply *mutatis mutandis* to every village council constituted under this Ordinance.

(4) Whenever the Administrator shall under the Municipal Elections Ordinance, 1927 or any amendment thereof, increase or decrease the number of councillors of any village council, he may, in consultation with the council concerned, order all such steps to be taken as he may deem necessary or desirable in connection with the retirement or duration of office of councillors so that the intent and purpose of the said Ordinance may have effect.

**Incorporation of Village Councils.**

115. Every village council constituted under this Ordinance shall, under the name of the village council of....., be a body corporate with perpetual succession, and shall by such name be capable in law of suing and being sued, of purchasing, holding, and alienating land, and generally of doing and performing such acts and things as bodies corporate may by law do and perform, subject to the provisions of this Ordinance and any other law affecting such village council.

**Election of Chairman.**

116. (1) At the first meeting of the council held after every annual election of councillors, or at the first meeting of the council of any newly constituted municipality and thereafter at the first meeting of the council thereof after every annual election of councillors, the councillors present shall elect one councillor to be the chairman who shall forthwith enter upon his office and continue therein until his successor be appointed after the next ensuing annual election of councillors unless his office be sooner vacated; and on any election of the chairman of the council the chairman of the meeting, if a member of the council, shall have a deliberative vote only; provided that if the office of the outgoing chairman has been vacated by reason of the expiry of his period of office as councillor he shall nevertheless preside at the meeting until the

\* As amended by section *fourteen* of Ordinance No. 12 of 1941.

chairman and deputy-chairman of the council shall be elected; but the quorum required to be present at such meeting shall be deemed to be exclusive and not inclusive of such outgoing chairman who shall not be entitled to any vote.

(2) In the event of the office of the chairman being vacated otherwise than by the expiry of the period for which he was elected as councillor, a successor shall, at the meeting next but one of the council held after the vacancy, be chosen by the councillors from amongst themselves, and such successor shall forthwith enter upon his office and serve as the chairman of the council for the remainder of the period for which the vacating chairman was elected; provided that if a chairman of the council for any reason be not elected at a meeting as prescribed in this section he may be elected at the first ordinary meeting of the council held thereafter or at a special meeting called for the purpose.

#### **Circumstances in which Election Determined by Lot.**

117. On the election of a chairman under the provisions of the last preceding section, should the number of votes duly cast be found to be equal for any two or more candidates the election shall be determined by lot.

#### **Deputy-Chairman of Council.**

118. (1) A deputy-chairman of the council shall be elected from time to time, subject *mutatis mutandis* to the provisions of the last two preceding sections, and such deputy-chairman shall whenever it shall be necessary owing to the death, resignation, absence, illness, or incapacity of the chairman do all acts which the chairman as such may do. The fact of the death, resignation, absence, illness, or incapacity of the chairman shall be notified by the town clerk to the first meeting of the council held after such death, resignation, absence, illness, or incapacity has happened or commenced, and be recorded in the council's minutes. Such record shall be sufficient authority for all acts done by the deputy-chairman which the chairman as such may do, from the date of the death or resignation, or the commencement of the absence, illness, or incapacity of the chairman until a new chairman shall be appointed or the chairman shall resume his duties.

(2) At every meeting of the council of such a municipality the chairman if present shall preside and in the event of his absence the deputy-chairman and if neither the chairman nor deputy-chairman be present at any meeting, then the councillors present shall elect a temporary chairman from among themselves who shall in the absence of the chairman and deputy-chairman preside at such meeting, and if it shall appear to the council at such meeting that the chairman and deputy-chairman are both absent from the municipality, or are for any other reason incapable of acting, the council may by resolution confer on the temporary chairman elected as aforesaid, full authority to do all acts which the chairman as such may do, until either the chairman or deputy-chairman is again able to act.

### **PART II.— POWERS AND DUTIES OF VILLAGE COUNCILS.**

#### **General and Special Powers.**

119. With the exception of section *seventy-seven*, the provisions of Chapters III, IV, V, VI, VII and Part I of Chapter X shall be and are hereby applied to the village council of any municipality constituted under section *one hundred and fourteen*, provided that a village council shall not necessarily appoint a medical officer of health unless so required by the Minister under section *twelve* (1) of the Public Health Act, 1919; provided further that where no medical officer of health is appointed the Secretary for Public Health of the Union may inspect personally or by a deputy appointed by him in writing to see that the public health by-laws or regulations or any regulations made by the Administrator under section *one hundred and twenty* hereof or made under the Public Health Act, 1919, or any amendment thereof are carried out.

#### **Regulations by Administrator.**

120. The Administrator may from time to time make, alter and rescind regulations applicable to any municipality for which a village council is constituted—

(a) Wherever he is of the opinion that it is in the public interest so to do and after consultation with the village council concerned on any matter relating to public health in regard to which the council is empowered under section *one hundred and nineteen* to make by-laws;

(b) on any other matter upon which such council is empowered as aforesaid but upon which the said council has failed to make by-laws, or having made by-laws, to obtain the approval of the Administrator thereto.

It shall be lawful for the Administrator from time to time by notice in the *Gazette* to apply, with such amendments as may be deemed necessary, any existing public health regulations in respect of any village council or councils to any additional village council or councils without republishing such regulations.

**Term "Mayor" to be read as "Chairman" and Deputy-Mayor as "Deputy-Chairman".**

121. In Chapters III, IV, V and VII applied under section *one hundred and nineteen* the term "mayor" shall be read as "chairman", and the term "deputy-mayor" shall be read as "deputy-chairman."

**Application and Non-application of certain other Laws to Village Councils.**

122. (1) The Municipalities Powers of Expropriation Ordinance 1903 or any amendment thereof (hereinafter in this paragraph referred to as the Expropriation Ordinance) shall not apply to Village Councils except that the provisions of sections *nine to twelve* inclusive of such Ordinance shall apply in the case of any arbitration proceedings in connexion with any works which may be undertaken by a village council under sections *eighty-one* and *eighty-four* of this Ordinance, provided that the Administrator may, upon the application of any village council, apply to such village council the Expropriation Ordinance for any specific purpose laid down in such Ordinance.

(2) The provisions of the Town Lands Ordinance, 1904 and any amendment thereof shall apply *mutatis mutandis* to all village councils constituted under this Ordinance.

**CHAPTER IX.**

**HEALTH COMMITTEES.**

**Constitution and Powers of Health Committees.**

123. (1) The committees constituted under the provisions of any prior Ordinance and mentioned in the Fifth Schedule to this Ordinance shall from the commencement of this Ordinance be constituted health committees under this Ordinance with jurisdiction over the areas existing and defined as at such commencement.

(2) Every health committee constituted under this Ordinance shall under the name of the health committee of ..... be a body corporate with perpetual succession, and shall by such name be capable in law of suing and being sued, of purchasing, holding and alienating land, and generally of doing and performing such acts and things as bodies corporate may by law do and perform subject to the provisions of this Ordinance and any other law affecting such health committee.

(3) The members of every health committee reconstituted hereunder shall remain in office under the provisions of the proclamation constituting it or any amendment thereof providing for the appointment or election of its members until the Administrator shall by proclamation in the *Provincial Gazette* prescribe that the members of any such committee shall be otherwise elected or appointed, or that any such committee shall be otherwise constituted under this Ordinance.

(4) The following provisions of this Ordinance shall be and are hereby applied *mutatis mutandis* to every health committee constituted under this Ordinance, namely, sub-section (b) of section *seven*, sections *thirty-four, thirty-six, thirty-seven, forty-one, forty-nine, fifty, fifty-one, fifty-six, fifty-seven, fifty-nine, to sixty-one* inclusive, sub-section (5) of section *sixty-two*, sections *sixty-three to sixty-nine* inclusive, *seventy-one to seventy-three* inclusive *seventy-nine*, sub-section (1) of section *one hundred and twenty-two* and sub-sections (3), (7), (11) and (12) of section *one hundred and thirty-one*.

**Establishment and Disestablishment of Health Committees.**

124. (1) The Administrator may from time to time, by proclamation in the *Provincial Gazette*, constitute in such manner as he shall think fit for any town, village or other area a committee to be called a health committee, and such committee, shall, subject to the provisions of this Ordinance, be charged with the maintenance of the health of the inhabitants for the area for which it is appointed and with such other functions, powers and duties as are prescribed in this chapter.

(2) Any health committee established under this Ordinance shall for the purposes of the Townships Act be deemed to be a municipal council, and—

(i) it shall be lawful for the Governor-General to transfer to such committee:—

(a) town lands subject to the provisions of the Town Lands Ordinance, 1904 or any amendment thereof;

(b) any lands or lots mentioned in section *twenty-four* of the Townships and Townplanning Ordinance, 1931;

(c) any other land registered in the name of the Government;

(ii) in the case of any township approved under the Townships Act there shall vest in such committee the *dominium* in the streets, squares, and open spaces shown on the general plan of such township.

(3) The Administrator may increase, alter, or diminish the area of jurisdiction of any health committee, and may at any time on due cause being shown abolish and disestablish such committee, and, for the purpose of effecting the abolition or disestablishment, the Administrator may make such order in writing under his hand as may be necessary, and such order shall have the force of law and be binding on all parties in any manner concerned.

(4) Should the Administrator at any time disestablish or abolish a health committee under the provisions of sub-section (3) of this section, he may appoint a person or persons to wind up the affairs of such health committee and may prescribe the powers, duties and functions and the procedure to be followed by such person or persons. Any credit balance in favour of such health committee after payment of all liabilities shall be paid into the Provincial Revenue Fund. Any person appointed under the provisions of this sub-section may be remunerated in manner prescribed by the Administrator.

#### **Election or Appointment of Members of Health Committees.**

125. The Administrator may by proclamation in the *Provincial Gazette*—

(a) declare that the mode of election of a health committee and the qualifications as voters for the election of its members shall be as provided by the Municipal Elections Ordinance, 1927, or any amendment thereof for the election of village councils and the qualifications as voters for elections of village councils; or

(b) prescribe some other mode of election of a health committee and other qualifications as voters for the election of its members; or

(c) direct that the members of a health committee shall be appointed by himself, and shall not necessarily be persons resident within the area of jurisdiction of such health committee;

(d) prescribe the circumstances under which members shall vacate their seats on health committees:

Provided that no person who is not a Union national shall be appointed or elected as a member of any health committee.

This provision shall however not apply to any such person who at the coming into operation of this Ordinance has served for a period exceeding 5 years as a member of a health committee.

#### **Regulations.**

126. (1) The Administrator may from time to time make, alter and rescind regulations for any health committee and for the area for which such committee is constituted in respect of the following matters, namely—

(a) for any or all of the purposes mentioned in section *eighty* and in sub-sections (3), (10), (11) and (12) of section *one-hundred and thirty-two* and for applying *mutatis mutandis* to the committee's area of jurisdiction either wholly or in part Part II of Chapter VI and Part I of Chapter VII of this Ordinance;

(b) for imposing upon the members of the committee any or all of the duties, obligations and liabilities imposed under this Ordinance upon the councillors of a municipality;

(c) for regulating the appointment, duties and privileges of the committee's officers and servants;

(d) for regulating the finances of the committee and for requiring payment by the committee—

(i) of all expenses incurred in connexion with the nominations and elections of members of the committee, and

(ii) of the cost of publishing in the *Provincial Gazette* any regulations made under this section or under any other law at such rate as may be prescribed by the Administrator not exceeding six shillings per inch across the page (double column).

(2) The provisions of sections *one hundred and three*, and *one hundred and five* to *one hundred and twelve* hereof inclusive shall *mutatis mutandis* apply to the regulations aforesaid as if such regulations were by-laws, such committees were councils of municipalities, and the areas for which they were appointed were municipalities.

#### **Revenues of Health Committees.**

127. The revenues of a health committee shall consist of—

(a) all fees, duties, taxes and charges under the regulations made by the Administrator;

(b) all fines imposed by a competent court and forfeited bail bonds for the contravention of such regulations, or the regulations for towns confirmed by the First Volksraad Resolution Article 1256, dated 18th September, 1899, or of the provisions of this Ordinance;

(c) all rates levied by the committee under the provisions of the Local Authorities Rating Ordinance, 1933 and any amendment thereof;

(d) all other fees, moneys or charges recoverable by the committee or to which the committee is entitled under this Ordinance or under any other law.

**Borrowing Powers.**

128. A health committee may—

- (1) obtain advances from any bank by way of overdraft in such amounts and on such conditions as the Administrator may approve;
- (2) from time to time raise loans in such amounts and on such conditions as may be approved by the Administrator. The security for any loan raised by a health committee under this section shall be the security mentioned in section *fifty-two* for loans raised by municipal councils, and for the purposes of recovering any such loan or instalments thereof or interest thereon, the provisions of such section shall *mutatis mutandis* apply.

**Agreements by Health Committees in regard to Services or Works.**

129. (1) A health committee may, with the consent of the Administrator, enter into an agreement with any neighbouring town or village council or health committee for the performance by such council or committee of any service or work within the area of jurisdiction and for the use and benefit of the inhabitants of the area or portion of the area under the jurisdiction of the health committee, which the said council or committee is, or may be empowered under and subject to the provisions of this Ordinance to undertake within the area of its own jurisdiction

(2) Notwithstanding anything in this Ordinance or in any other law contained, any such council may, subject to the consent of the Administrator being obtained as aforesaid, enter into such agreement with any neighbouring health committee.

(3) Where any agreement made and approved as aforesaid involves any special tax of rate being imposed on owners of property within the area of jurisdiction of a health committee or portion thereof the Administrator may, by proclamation in the *Provincial Gazette*, declare that for the purpose of imposing and collecting such tax or rate the said area shall for such purposes only, be deemed to be under the jurisdiction of such council or committee supplying the agreed service or work and that all the provisions of this Ordinance and of the Local Authorities Rating Ordinance, 1933 and any amendment thereof which are, or may become, applicable within the municipality shall, for such purposes, be applicable within the said area of jurisdiction of a health committee or portion thereof; provided that the Administrator shall not exercise the powers of this section unless—

(a) The said committee shall have served upon every such owner whose address can after reasonable inquiry be ascertained a written notice containing full particulars of the proposed agreement, the nature of the service which it is proposed to give to him, and the approximate amount of the rates, taxes, or charges and the period over which they will be levied by such council if effect be given to the said agreement;

(b) not less than two-thirds of such owners within eight weeks of the date of the serving of such notice shall have collectively petitioned the Administrator to exercise such powers.

(4) Any such owner mentioned in sub-section (3) above, may lodge with the Administrator written objection to the exercise by the Administrator of such powers, and the Administrator shall thereupon take such steps as may to him seem necessary to investigate any such objection.

(5) After due inquiry into any objection made under the provision of the last preceding sub-section the Administrator may exercise the powers of this section, and may make such modifications in the application to any particular area of the proposed agreement as he may think fit, or may refuse to exercise such powers, provided that the Administrator shall not exercise such powers unless the consent of two-thirds of such owners has been obtained to the proposed agreement in the manner herein provided.

**CHAPTER X.****SPECIAL POWERS OF TOWN COUNCILS.****PART I.—CERTAIN SPECIAL PROVISIONS.****Application of Chapter.**

130. The provisions of this chapter and any amendments thereof shall be and are hereby assigned to every town council constituted or hereafter constituted under this Ordinance.

**Other Special Powers for Town Councils.**

131. The council may do any of the following things, namely—

- (1) establish, erect, construct, equip, and maintain, either within or outside the municipality hospitals, whether permanent or temporary, for the reception of patients suffering from infectious diseases, make charges for treatment in such hospitals, and provide treatment for indigent patients who are inhabitants of such municipality free of charge;



- (2) establish, maintain, carry on, an art gallery, and acquire works of art for preservation therein;
- (3) establish and maintain public monuments or make grants of money towards the establishment or maintenance thereof;
- (4) (a) establish, acquire, erect construct, equip and carry on cold storage works, depots for the inspection of milk and meat and milk-testing stations and make charges in connexion therewith;
- (b) make and sell ice;
- (5) establish, acquire, construct, maintain, and carry on within the municipality a service of motor omnibuses or other vehicles drawn or propelled by animal, mechanical or electrical power for the carriage of passengers and parcels, and make charges for or in connexion with such service and in connexion with any such service enter into agreements with any person or corporation for the establishment, acquisition, construction, laying down, equipment, maintenance, working, and guaranteeing of the capital cost and interest on the capital cost of such establishment, etc., and may exercise such powers either alone or in conjunction with another or other municipalities, persons, corporations or authorities; provided that this sub-section shall not apply to tramways; and provided further that any council may exercise the powers by this sub-section conferred in any area beyond the municipality with the consent of the local authority, if any, of such area or if there be no local authority in such area, then with the consent of the Administrator;
- (6) take a census of the inhabitants of the municipality and contribute to the cost of any such census when taken by any other authority;
- (7) enter into any contract or contracts with any town council, village council, health committee, or with any corporation, or company, person or persons, to secure or further the carrying out outside the municipality of any work or undertaking which may be within the powers of the council;
- (8) establish, acquire, erect, construct, equip, maintain, and carry on laundries and make charges in connexion therewith;
- (9) establish, erect, construct, equip, maintain and carry on steam disinfecting stations;
- (10) (a) at the request of the owner of any land or premises situated within the limits of the municipality, construct and pave with concrete blocks or flat hewn or other stones or in such other manner or form and of such breadth as the council may think fit, either by its own servants or through contractors, a footway along the side of any street abutting upon the land or premises of any such owner, and recover from such owner the expenses or any portion thereof incurred in such work, including a reasonable charge for supervision, and if the work is undertaken by the council without the interposition of a contractor, in addition recover charges for the use of tools and plant;
- (b) advance to the owner of any land or premise the amount of any expenses incurred or to be incurred by him in the construction or paving of any such footway on or in respect of such land or premises;
- (c) the provisions of sub-sections (2) to (5) of section *one hundred and forty-two* of this Ordinance shall apply to any footways constructed by the council or by the owner of any land or premises under this sub-section;
- (11) (a) advertise and give publicity to the attractions and advantages of the municipality and district;
- (b) contribute to any organisation (approved by the Administrator), established for collecting and collating information in regard to the amenities and advantages of the Union of South Africa or any part thereof whether commercial, historical, scenic, recreational, curative or climatic and for disseminating that information within or outside the said Union;
- (12) divert, straighten, define, and canalize the course of any stream, spruit or water-course within the municipality after giving notice and making compensation to any owner or occupier of land or any rights or servitudes attaching to land abutting on such course as existing and as proposed in manner provided by Part II of the Municipalities Powers of Expropriation Ordinance, 1903 or any amendment thereof; provided that in settling any compensation payable by the council hereunder the enhanced or improved value immediate or prospective which shall accrue to any such land by reason of the carrying out of the said purposes or any of them shall be taken into account;
- (13) establish, erect, construct maintain and carry on or assist institutions or clinics for the care and welfare of newly-born infants and make provision for suitable instruction being imparted to expectant mothers and mothers of such infants and make charges in connexion therewith;
- (14) (a) establish, maintain, assist, promote and carry on if deemed desirable or necessary contribute to a fund or funds for the purpose of indemnifying owners of carcasses or of portions of carcasses condemned at the

municipal abattoir for such diseases as may be specified by the council; provided that the council shall have power to reject or refuse to insure animals brought from any area or farm known to be infected or brought or sent in by any person known to deal in infected or diseased animals;

(b) require for the purpose of this sub-section the owners of animals brought to the municipal abattoir to contribute to such fund or funds according to the scale of contributions from time to time in force and which scale of contributions the council is hereby authorized to make, alter vary and revoke from time to time as it may determine; and

(c) take all such steps as it may deem necessary or desirable for the purpose of giving full and complete effect to the provisions of this sub-section including the power to make, alter, vary and revoke rules or regulations in respect of the control of such fund or funds;

(15) subject to the provisions of the Aviation Act, 1923, or any amendment thereof, establish, erect, construct, maintain and carry on aerodromes either within or outside, or partly within and partly outside the limits of the municipality, either by itself or jointly with any other council and if with any other council, then upon such terms as such councils may by written contract agree.

In the event of any council entering into any such contract, it shall—

(a) notwithstanding anything to the contrary contained in this Ordinance, be and it is hereby empowered—

(i) to delegate its powers to erect, construct, maintain, supervise and carry on the said aerodrome to a joint committee composed of representatives of the respective contracting parties; to fix the number of such joint committee, and to determine what its quorum shall be;

(ii) to elect from its own body representatives on the said joint committee;

(iii) to make provision for the method of appointment of the Chairman of the joint committees who may or may not be one of the representatives of the contracting parties, and to determine whether or not such chairman shall be entitled to exercise a casting vote,

provided always that no expenditure shall be incurred by such joint committee unless provision has been made therefor and a detailed estimate submitted to the finance committee of each council having representation on such joint committee and approved by each such council;

(b) notwithstanding anything to the contrary contained in the Local Authorities Rating Ordinance, 1933, or any amendment thereof be and it is hereby empowered to remit either wholly or in part, any rate or rates which have or may at any time become due from any other council in respect of any interest in land (as defined in the said Ordinance) owned or held by such other council in or in connection with any aerodrome jointly controlled as aforesaid;

(16) subject to the provisions of the Radio Act, 1926, and of the Broadcasting Act, 1936, establish, erect, construct, maintain and carry on wireless broadcasting stations and enter into contracts for the hire of apparatus and for listening-in.

#### **Further Special By-law Powers for Town Councils.**

132. The council may, from time to time, make, alter, and revoke by-laws for all or any of the following purposes, namely—

(1) for maintaining and regulating any service of motor omnibuses or other vehicles, drawn or propelled by animal, mechanical, or electrical power, which may be established by the council;

(2) for regulating the manufacture of chemicals;

(3) for regulating, supervising and controlling barbers and hairdressers and barbers' and hairdressers' shops and for licensing any such barbers or hairdressers or barbers' or hairdressers' shops as do not require a licence under the provisions of the Licences Consolidation Act, 1925, as amended;

(4) for granting licences (but without charging any fee therefor) to private hospitals and nursing homes and for regulating such hospitals and nursing homes;

(5) subject to the provisions of the Medical, Dental and Pharmacy Act, 1928, and of the Public Health Act No. 36 of 1919, and of any regulations in force under the said Acts or any amendments thereof for regulating and supervising the practice of midwives and of prohibiting the practice of midwifery by persons other than registered midwives;

(6) for regulating and controlling the use of public baths, wash-houses and laundries established by the council and for confining or restricting the separate use of such establishments to white persons or to natives or Asiatics or other classes of persons respectively;

(7) for regulating the taking by the council of any census of the inhabitants of the municipality, defining the duties of census officers appointed by the council, compelling the giving of information required for the purpose of such census, and prohibiting the divulging of such information;

(8) for granting to plumbers and drainlayers licences (but without charging any fee therefor) authorizing them to carry out—

(a) plumbing or drain-laying work for the installation, alteration or repair of any system of drainage connected or intended to be connected with any municipal sewer, and/or

(b) drain-laying or drainage work (other than storm-water drainage) for draining soiled or waste water; for regulating such plumbers and drain-layers, and prohibiting the carrying out of any such work by any unlicensed person; provided that—

(c) the council may refuse to grant a licence to any person to carry out any plumbing or drain-laying work on the following ground in addition to the grounds mentioned in section *ninety*, namely, that the applicant is not competent to carry out plumbing or drain-laying work in a proper and workmanlike manner; provided that the refusal of the council to grant a licence on the ground herein stated shall be subject to the same appeal as is provided in the said section;

(d) the council may further cancel any such licence granted to any plumber or drain-layer if it is satisfied that he has done any such plumbing or drain-laying work in a negligent or unworkmanlike manner to the injury of any person or property or contrary to any of the council's by-laws; provided that prior to such cancellation the person whose licence it is proposed to cancel shall be afforded an opportunity of appearing before a committee of the council and being heard in his own defence;

(9) for granting to electricians licences (but without charging any fee therefor) authorizing them to carry out electrical wiring or other work for the installation, alteration, or repair of any system of wiring connected or intended to be connected with any municipal works for the supply or distribution of power, for regulating such electricians and for prohibiting the carrying out of any such work by any unlicensed person; provided that the provisions of paragraphs (c) and (d) of sub-section (8) shall apply *mutatis mutandis* in respect of such licences;

(10) subject to the provisions of Act No. 22 of 1925 or any amendment thereof for licensing, controlling, inspecting, supervising and regulating places used for the purpose of selling publicly, or exposing for public sale any cattle, horses, sheep, goats, pigs, poultry, or other live stock; for licensing persons to conduct such sales on municipal markets or at places other than municipal markets and for requiring the deposit of security by an applicant for such licence;

(11) for compelling and regulating the submission to the council of all meat or dead animals intended for human consumption which may be conveyed or transported into the municipal area by the owners or consignees of the same, and at their expense, in order that such meat or dead animals may be inspected or passed by the council, for regulating the branding or stamping of such meat or dead animals and for preventing the sale or use of such meat or dead animals for human consumption until the same have been inspected and passed by the council and for fixing the fees to be paid in respect of any such inspection, branding or stamping;

(12) for prohibiting the introduction into the municipality of any carcass other than game or of any butcher's meat slaughtered outside the municipality, except when accompanied by such undetached viscera organs or other portions of the carcass and in the case of pigs the head also as the council may specify, or by a medical or veterinary certificate that such carcass or meat and the viscera belonging thereto have been duly inspected at the time of slaughter and found free from disease; for prohibiting the introduction into the municipality of any unfrozen carcass (other than game) or unfrozen butcher's meat of animals slaughtered outside the municipality unless such animals were slaughtered at places approved by the council or a committee thereof; for specifying the conditions on which such approval may be granted or withdrawn and for limiting its duration; provided that this and the preceding sub-section shall not apply to meat or dead animals which may be conveyed or transported into the municipality by any person or the servant of any person for consumption by such person or his household;

(13) (a) for regulating the construction by any owner of land at his expense of a footway along the side of any street abutting on his land, and the paving of such footway with concrete blocks or flat hewn or other stones, or in any other way, and for regulating the construction and paving by the council at such owner's expense of such footway;

(b) for fixing the charges which may be made for the construction and paving by the council of any such footway; any charges so fixed shall for all

purposes be deemed to be charges for services by the Council and shall be recoverable as such;

(14) subject to the provisions of the Aviation Act, 1923, or any amendment thereof for maintaining, regulating, supervising and carrying on aerodromes and for fixing charges and fees to be made and levied in respect thereof and in connexion with the conduct thereof (including charges for admission thereto), provided that the powers hereunder may be exercised by a council either separately or jointly with other councils and whether or not such aerodromes are situate within the area of jurisdiction of such council or councils.

No such by-law shall be inconsistent with, contrary or repugnant to the provisions of this Ordinance or any other law in force within the municipality.

## PART II.—SEWERAGE AND DRAINAGE WORKS.

### Power to undertake Sewerage and Drainage.

133. (1) The council may erect, construct, equip, and carry out sewerage or drainage works within or outside the municipality; provided that the council shall not commence to erect or construct sewerage works without the consent of the Administrator.

(2) With the consent of the Administrator the council may contract in writing with any person outside the municipality or with the council of any other municipality or municipalities to receive into its sewers the sewage of such person municipality or municipalities and to dispose of the same at any sewage farm or sewage disposal works established by the council upon such terms as may by such contract be agreed and may carry out all such work and do all such things as may be required for the due performance of such contract.

(3) With the consent of the Administrator two or more councils may, upon such terms as such councils may by written contract agree, jointly erect, construct, equip and carry out sewerage or drainage works either within or outside the municipality under the jurisdiction of any such councils, and may jointly establish maintain and carry on any sewage farm or sewage disposal works, in accordance with the provisions of section *one hundred and thirty-six* that may be necessary or advisable for the requirements of the said municipalities.

(4) In the event of any council entering into any contract such as is referred to in sub-section (3) hereof, such council shall—

(a) notwithstanding anything to the contrary contained in this Ordinance be and it is hereby empowered:—

(i) By agreement with the other contracting council or councils to appoint a joint committee composed of members of the respective contracting councils, to fix the number of such joint committee and to determine what its quorum shall be.

(ii) To elect from its own body representatives on the said joint committee.

(iii) By agreement with the other contracting council or councils to make provision for the appointment of a chairman of the said joint committee who may or may not be a member of any of the contracting councils, to determine the method of appointment of such chairman and to determine whether or not such chairman shall be entitled to vote and/or to exercise a casting vote.

(iv) To delegate its powers to erect, construct, equip, carry out and maintain the said sewerage or drainage works and to establish, maintain and carry on the said sewage farm or sewage disposal works to such joint committee, provided always that no expenditure shall be incurred by such joint committee unless provision has been made therefor and a detailed estimate submitted to the finance committee of each council represented on such joint committee and approved by each such council;

(b) notwithstanding anything to the contrary contained in the Local Authorities Rating Ordinance, 1933, or any amendment thereof, be and it is hereby empowered to remit either wholly or in part, any rate or rates which have or may at any time become due from any other council in respect of any interest in land (as defined in the said Ordinance) owned or held by such other council in or in connection with any sewerage or drainage works or sewage farm or sewage disposal works jointly controlled as aforesaid.

(5) The provisions of sections *one hundred and thirty-four* to *one hundred and forty-three* inclusive shall *mutatis mutandis* apply whenever anything is done or is proposed to be done or any work is carried out or is proposed to be carried out under the provisions of sub-sections (2) and (3) of this section. None of the councils concerned nor any other person shall be liable for any nuisance or damage which is the inevitable consequence of the proper and ordinary conduct of any sewage farm or sewage disposal works established, maintained or carried on in order to give effect to any contracts referred to in the said sub-sections. Any notice which the council is required to give under any of

the said sections shall be a joint notice given by the councils concerned; any notice which is required to be served on the town clerk shall be served on the town clerk of each of the municipalities concerned; and any consent which any person is required to obtain under the provisions of section *one hundred and forty* shall be the consent of each of the councils concerned.

**Provisions as to carrying out Sewerage and Drainage Works.**

134. For the purpose of carrying out any drainage or sewerage works the council may—

(a) cause such sewers, drains, and pipes to be made, laid, altered deepened covered over, and maintained either within, or (subject to the provisions of sections *one hundred and thirty-seven*, *one hundred and thirty-eight*, and *one hundred and thirty nine*) outside the municipality as may be necessary for effectually disposing of the sewage of or draining the municipality or any portion thereof, or for effectually carrying out any contract which may have been entered into under the provisions of sub-section (2) or sub-section (3) of section *one hundred and thirty-three*, and from time to time cause to be made and maintained all such reservoirs, sluices, engines, ventilating shafts, and other works as may be necessary for cleansing and ventilating such sewers, drains, and pipes;

(b) carry such sewers, drains or pipes through across, or under any public road, street, square, or open space, or any place laid out as or intended for a public road, street, square, or open place either within or outside the municipality, without paying compensation and, after giving reasonable notice in writing to the owner or occupier of their intention, perform the same acts in respect of any land within or (subject to the provisions of sections *one hundred and thirty-seven* to *one hundred and thirty-nine* inclusive) outside the municipality on making compensation for any damage done, the amount whereof, if not mutually agreed upon, being determined by arbitration in manner provided by the Municipalities Powers of Expropriation Ordinance 1903 or any amendment thereof, provided that, in determining any compensation payable by the council hereunder the existence of any sanitary passage through or over which the council has a right of access to any private land or building for the purpose of sanitary service and which right the council may be willing to surrender, shall be taken into account.

(c) from time to time alter, enlarge, divert, discontinue, close up, remove or destroy any sewers, drains, or pipes under the control of the council;

(d) within, or (subject to the provisions of sections *one hundred and thirty-seven* to *one hundred and thirty-nine* inclusive) outside the municipality construct any works for the purpose of receiving, storing, disinfecting, purifying, distributing, or otherwise disposing of any sewage or drainage;

(e) in any case, where owing to the contour of the ground or for other reasons, it is difficult to connect for sewerage purposes any premises within the municipality direct with a public sewer maintained by the council, the council may subject to the provisions of sub-section (b) of this section make connexions with and utilize any private drain on private ground so as to connect such premises with any public sewer; provided that upon such connexion being made the said drain with which connexion is so made shall, from the point of such connexion to the point of junction with the public sewer, be considered and used as a combined or joint drain, and the cost of construction, repair and maintenance of such combined or joint drain shall, so far as the same shall not fall to be borne by the council, be paid and borne by the owners of premises respectively served thereby, in such proportions as the council shall from time to time adjust and settle.

**Vesting of Sewers in Council and Right of Access thereto.**

135. (1) All sewers, drains, pipes, ventilating shafts or other conveniences for the disposal of sewage or drainage, constructed by or which are under the control of the council except such as may be constructed on private land for the owner thereof under the provisions of section *one hundred and forty-two* shall be vested in the council, and the council, or any other persons duly authorized by it, shall at all times have a right of access to private property for purposes of inspection, maintenance, alteration, or repair of such sewers, pipes, shafts, and other conveniences, and may do all things necessary to uncover and expose such sewers, drains, pipes, ventilating shafts, or other conveniences for the purpose of such inspection, maintenance, alteration and repair, provided that the council shall repair all damage caused by such entry and inspection.

(2) Whenever sewerage or drainage works are carried out by two or more councils jointly under the provisions of sub-section (3) of section *one hundred and thirty-three* the contract between the councils concerned shall state in which council or councils the property or any portion thereof referred to in sub-section (1) of this section shall vest and such property shall be so vested; and the rights conferred upon the council by this section shall be exercised by the said councils jointly.

**Sewage Farms.**

136. The council may maintain and carry on any sewage farm or sewage disposal works established at the commencement of this Ordinance, the establishment of which has been allowed by an order made under section *thirty* of the Municipalities Powers of Expropriation Ordinance, 1903, and may establish subject to the consent of the Administrator and maintain and carry on any such sewage farms or sewage disposal works either within or subject to the provisions of sections *one hundred and thirty-seven*, *one hundred and thirty-eight* and *one hundred and thirty-nine*, outside the municipality, as may be necessary or advisable for the requirements of the municipality or which may be necessary or advisable for the carrying out of any contract which may have been entered into under the provisions of sub-section (2) or sub-section (3) of section *one hundred and thirty-three* and may either let any lands used as a sewage farm to tenants or may farm the same and dispose of the produce thereof within or outside the municipality and neither the council nor any other person shall be liable for any nuisance or damage which is the inevitable consequence of the proper and ordinary conduct of any sewage farm or sewage disposal works established, maintained, or carried on under the provisions of this section.

**Notice before commencing any Sewerage Works outside Municipal Limits.**

137. The council shall, at least thirty days before commencing outside the municipality the construction or extension of any sewer or any other work for sewerage purposes, give notice of the intended work by advertisement in one or more local newspapers circulating in the area in which the work is to be done or if there be no such newspaper, then in one or more newspapers circulating in the municipality. Such notice shall describe the nature of the intended work, and shall state the intended terminuses hereof, and particulars of the roads, streets, squares, open spaces, and other land (if any) through, across, under, or on which the work is to be done, and shall name a place where a plan of the intended work is open for inspection at all reasonable hours; a copy of such notice shall be served on the owners or reputed owners, lessees or reputed lessees and occupiers of the land and on the local authority (if any) having the care of such roads, streets, squares, or open spaces.

**Notice of Objection by Owner.**

138. If any such owner, lessee, or occupier, or any such local authority, or any other person who would be affected by the intended work, objects to such work and serves written notice of objection on the Administrator and on the town clerk at any time within the said period of thirty days, then the intended work shall not be commenced without the consent of the Administrator, unless such objection is withdrawn.

**Inquiry by Administrator and Action thereon.**

139. The Administrator may appoint any person or persons to make an inquiry into the propriety of the intended work and the objections thereto, and to report to him on the matter, and on receiving the report of such person or persons, the Administrator may make an order, disallowing the intended work or allowing it with such modifications (if any) as he may deem necessary.

**Offences and Penalties.**

140. Any person who without the previous consent in writing of the council shall—

(a) erect or cause to be erected any building or other structure over any sewer, drain, or pipe vested in or constructed under the authority of the council; or

(b) excavate, open up, or remove, or cause to be excavated, opened up, or removed, the ground under or near to any such sewer, drain or pipe; or

(c) make or cause to be made any opening into such sewer, drain, or pipe, for the purpose of discharging sewage or drainage into the same or otherwise; or

(d) injure or destroy or cause to be injured or destroyed any such sewers, drains, or pipes or any works or things in connection therewith, shall be guilty of an offence and liable to a fine not exceeding fifty pounds, and the council may alter, demolish, or otherwise deal with as it may think fit any building or structure so erected, fill in, and make good any such damage, or close any such opening into a sewer, drain, or pipe, and the expenses so incurred shall together with such fine be recoverable from the offender in any competent court.

**Charges for Use of Sewers.**

141. (a) The council may divide the users of the council's drains or sewers or sewerage works into various classes and may by by-law fix the charges which may be made in respect of such users or classes of users and frame different

charges for each class. Such charges shall for all purposes be deemed to be charges for sanitary services and shall be recoverable in accordance with the provisions of sections *forty-nine* and *fifty*.

(b) Where any erf, stand or lot or other area with or without any improvements is, or in the opinion of the Council can be, connected to any drain or sewer and sewerage works which has been constructed by the Council, the owner of such erf, stand or lot or other area shall be deemed to be a user and may be charged such fees in respect of the said drain or sewer as may by by-law be fixed by the council in terms of paragraph (a) of this section.

**Power to Execute Drainage Works on Private Land or Premises or to make Advances therefor.**

142. (1) The council may in its discretion—

(a) carry out either by its own servants, or through contractors, any work in connection with the installation or improvement of a drainage or sewerage system on any land or premises, and the connection of such land or premises with the council's drains or sewers, and recover from the owner of such land or premises the expenses incurred in such work, including a reasonable charge for supervision and, if the work is undertaken by the council without the interposition of a contractor, may in addition recover charges for the use of tools and plant; or

(b) advance to the owner of any land or premises the amount of any expenses incurred or to be incurred by him in the execution of any such drainage or sewerage work on such land or premises, including, with the consent of the Administrator, the amount of any expenses incurred or to be incurred by him for the installation of baths, lavatory basins, sinks, and similar fittings connected or to be connected to any such drainage or sewerage works.

\* (2) The council may agree to accept payment of such expenses and repayment of such advances in such instalments, at such times and on such conditions as may to the council appear reasonable, together with interest thereon at the rate of not less than four and one-half percentum or more than six percentum per annum (which shall be charged from the date when the works are completed or the advances are made), on such amount as remains for the time being outstanding; provided that, where the council shall advance any amounts from moneys borrowed at a rate of interest equal to or more than six percentum per annum, the council may fix the interest payable by the owner at a rate equal to the rate of interest paid by the council for the moneys so borrowed by it plus an additional rate of interest of one percentum per annum. The amount of interest payable in terms hereof shall be fixed by the council in an agreement with the owner, and shall not be subject to any alteration during the currency of the said agreement, notwithstanding any subsequent variation in the rate of interest that may be charged against the council for moneys borrowed by it.

(3) Such expenses and advances other than advances as mentioned in the second proviso to sub-section (1) of section *fifty* of this Ordinance, together with interest thereon shall be a charge upon the land or premises in respect of which the same are incurred or made, and shall be paid to the council by the owner thereof for the time being and the instalments thereof as they fall due shall be recoverable from the present or any future owner of the land or premises in any competent court.

(4) The council shall keep at the municipal offices a register of all expenses incurred and advances made under this section, and shall show in such register the total amounts thereof, the instalments in which the same are payable, the land or premises in respect of which the same have been incurred or made, and the balances for the time being outstanding and shall keep such register open at all reasonable times to the inspection of any person, free of charge; such register and any extract therefrom certified by the town clerk or other person authorized by the council shall in any proceedings for the recovery of such expenses, advances, or interest thereon or any instalments thereof, be *prima facie* evidence of the matters contained therein.

(5) Nothing in this section shall limit or affect the power of the council to execute any work which the council is, by law or under any by-law in force in the municipality, empowered to execute or to recover the cost of executing such work from any person who is liable therefor.

(6) In the event of the land or premises in respect of which an advance under this section has been made being hypothecated under a mortgage bond, the Council shall give fourteen days' notice in writing to the mortgagee of its intention to make such advance.

\* As amended by section *fifteen* of Ordinance No. 12 of 1941.

**By-laws for Sewerage and Drainage.**

143. The council may, from time to time make, alter, and revoke by-laws for all or any of the following purposes, namely:—

(a) For regulating sewerage or drainage and for compelling the construction and connexion at the owner's expense of private drains with public drains, sewers, or pipes, and for regulating the construction by the council at the owner's expense of all house drains, in so far as they connect with and extend from the main sewer to the boundary of the property concerned;

(b) for regulating the giving of notice and the deposit of plans and sections by persons intending to carry out any sewerage or drainage work on any land or premises and the approval or disapproval thereof by the council and the removal or alteration of any sewerage or drainage work begun or done in contravention of any by-law and for the charging of fees for the examination of such plans;

(c) generally for carrying out the powers and authorities conferred upon the council by the last preceding section.

No such by-law shall be inconsistent with, contrary, or repugnant to the provisions of this Ordinance or of any other law in force within the municipality.

**PART III.—OTHER WORKS.****Power to undertake Tramways.**

144. The council may—

(a) establish, acquire, construct, lay down, equip, maintain, and work tramways with or without rails within the municipality or beyond its limits, and make charges in connexion therewith, and in connexion with any tramways beyond the limits of the municipality may enter into agreement with any person or corporation for the establishment, acquisition, construction, laying down, equipment, maintenance, working and guaranteeing of the capital cost, and interest on the capital cost of such undertaking and may exercise such powers either alone or in conjunction with another or other municipalities, persons, corporations, or authorities;

(b) establish and maintain, in connection with any tramways worked by the council, a service for the carriage and delivery of parcels within the municipality and make charges for such service under such by-laws and conditions as may be approved by the Administrator; provided that before commencing to establish, acquire, or construct tramways the council shall obtain the consent of the Administrator.

**Special Assessment for Tramways in outside Districts.**

145. The capital cost of construction as hereinafter defined, and any loss that may be incurred in working any line of tramway outside an area, which the Administrator may declare and define by proclamation in the *Provincial Gazette* to be an inner tramway area, shall be deemed to be abnormal or extraordinary expenditure, within the meaning of section *twenty-three* of the Local Authorities Rating Ordinance, 1933, or any amendment thereof, incurred in respect of a particular area served by such tramway and lying outside such inner area; and the council may, with respect to such capital cost and loss in working (if any), exercise all the powers conferred by the said Ordinance or amendment thereof. The capital cost of construction aforesaid shall include the cost of tracks, and tramways, levelling or making up roads where the track has to be excavated or raised, electrical bonding, overhead or other power construction along such tracks, and any necessary sites for terminuses and car stations.

**Certain Conditions Precedent before Council can Construct Tramways.**

146. The following provisions shall apply to the construction of any tramway in respect of which a special rate is proposed to be levied under the last preceding section:—

(1) The council before entering upon the construction of any such tramway shall—

(a) pass a resolution by a majority of existing councillors at a meeting of the council held not less than fourteen days after notice shall have been given at a meeting of the council of an intention to move for the construction of such tramway;

(b) publish daily in six issues of each of two or more newspapers circulating in the municipality an advertisement describing shortly the line of tramway which it is proposed to construct, stating the area in which the council proposes to levy special rates under the powers of the last preceding section, and the proportions (if any) according to which it is proposed that such special rates should be imposed, and naming a place where a plan of the proposed tramway and of such area may be seen at all reasonable hours.



(2) If any person upon whom any liability in respect of the said proposed special rates would fall objects to the construction of any such tramway, or to the imposition of any such special rate, or to the proportion according to which it is proposed to impose the same, or to the exclusion of any other property from the area proposed to be specially rated, and serves written notice of such objection on the council and on the Administrator at any time within fourteen days after the last publication of the advertisement mentioned in sub-section (1) the council shall not be entitled to proceed with the construction of any such tramway without the sanction of the Administrator unless such objection be withdrawn.

(3) The Administrator may, on the application of the council and on due proof of the proper advertisement having been published, appoint a person or persons to make an inquiry into the propriety of the proposed undertaking and the objection thereto, and to report to the Administrator on the matters with respect to which such inquiry was directed, and on receiving such report, the Administrator may make an order empowering the council to proceed with the construction of such tramway in the manner proposed by the council, or subject to such conditions and modifications as he may think fit or may refuse to sanction such construction or undertanking.

**Special Tramway Rates shall be imposed on value of Rateable Property, less deduction for value of Buildings.**

147. Notwithstanding anything contained in the Local Authorities Rating Ordinance, 1933, or any amendment thereof, the council shall, for the purpose of any special rate which it may decide to impose with respect to the capital cost of constructing and any loss that may be incurred in working any line of tramway, deduct from the value of the rateable property on which such rate is to be imposed as appearing in the valuation roll, such part thereof as represents the value of buildings, and impose such rate on the value of such property, subject to such deduction as aforesaid, instead of on the full value thereof.

**If Owners of Two-thirds in Value of Property liable to be Specially Rated in respect of Proposed Tramway Petition for Abandonment of Council's Proposals, Council may not Proceed.**

148. If at any time within the period allowed under section *one hundred and forty-six* for serving notice of objection on the council with reference to the construction of any tramway and to the special rate proposed in respect thereof, the owners of two-thirds of the rateable property on which it is proposed to impose such special rate (such two-thirds being reckoned by value according to the values in the valuation roll for the time being in force but subject to the deduction in the preceding section mentioned) shall sign and cause to be transmitted to the town clerk a petition to the council, praying that the council's proposals for the construction of such tramway, and that the imposition of special rates as set forth in the advertisement with reference thereto be entirely abandoned, the council shall not proceed further therewith but the same shall forthwith be abandoned, and the council shall not again initiate proceedings under the said section with regard to the construction of such tramway, until after the expiry of a period of six months from the date when such petition for abandonment is received by the town clerk.

**Excess of Special Rates over Capital Cost of Constructing Tramway to be Refunded or Remitted.**

149. If it shall appear that the amount received or to be received by way of special rates imposed with respect to the capital cost of constructing any line of tramway (as defined by section *one hundred and forty-five*), is in excess of such capital cost, the council shall refund to persons who have paid such rates, or remit in favour of persons liable to pay the same, a proportionate part thereof, so that the total amount received or to be received by the council by way of such special rates may be approximately equal to the capital cost of constructing such line of tramway. If any question shall arise as to the amount of any refund due from the council under this section, the person claiming such refund may apply to the Administrator to determine such question, and his decision thereon shall be final.

**Power to Establish Cemeteries outside the Municipality and Tramways in Connexion therewith.**

150. The council may, subject to the approval of the Administrator, establish and maintain cemeteries outside the municipality, and establish, maintain, and work tramways to serve such cemeteries, and it shall have the same power of making by-laws for any such cemetery and tramway and of making charges in connexion therewith as it would have, if the same were within the municipality, and any by-laws relating to cemeteries or tramways may, by resolution of the council, be applied to any cemetery or tramway established under

this section, and shall come into force on the date stated in a notice published in the *Provincial Gazette*.

#### Tramway By-laws.

\*151. The council may, from time to time, make, alter, and revoke by-laws for all or any of the following purposes—

(a) for regulating the use of any tramways established, acquired, or worked by the council and the method of working such tramways including the running of privately hired tramcars thereon and for regulating the charges to be made in connection with the use of the council's tramcars, provided that if it so decides, the council may regulate such charges by resolution of the council and not by by-law;

(b) for appointing separate tramcars for the use of white persons and of natives or Asiatics or other coloured persons respectively and restricting the use of such cars to such persons and prohibiting the use of any tramcars by persons who are not respectably dressed or well conducted;

(c) for regulating the conditions of service and duties of persons employed by the council in working tramways, and for imposing fines (by means of stoppages of pay) on such persons for negligence, dereliction of duty, or other offences prejudicial to the good and proper working of the tramway system;

(d) for regulating the disposal of unclaimed articles or goods found in the tramway premises and tramcars of the council.

(e) generally for the good and efficient working of such tramways and the service in connection therewith.

For the purposes of paragraphs (b) to (e) of this section (both paragraphs included) the word 'tramways' shall include any service of motor omnibuses or other vehicles, drawn or propelled by animal, mechanical or electrical power which has been established by the council under this Ordinance or any prior law and the word 'tramcar' shall have a corresponding meaning.

No such by-law shall be inconsistent with, contrary, or repugnant to the provisions of this Ordinance or of any other law in force within the municipality.

#### SPECIAL WATER RATES.

152. The capital cost of providing or laying any new water mains required for the purpose of supplying water to any land or premises within the municipality, which are not connected with any existing mains, shall be deemed to be abnormal or extraordinary expenditure within the meaning of section *twenty-three* of the Local Authorities Rating Ordinance, 1933 or any amendment thereof, incurred in respect of any particular area served or intended to be served by any such new water mains, whether the same are laid within or without such area, and the council may, with respect to such capital cost, exercise all the powers conferred by the said Ordinance of any amendment thereof.

Any special rate imposed under this section shall be called "a special water rate" and all the provisions contained in this Ordinance with regard to the construction by the council of any tramway in respect of which a special rate is proposed to be levied, and to the imposition, remission, or refunding of such rate, shall apply *mutatis mutandis* to the providing and laying of any new water mains in respect of which a "special water rate" is proposed to be levied, and to the imposition, remission, or refunding of any "special water rate".

### CHAPTER XI.

#### GENERAL.

#### PART I.—POWERS OF ADMINISTRATOR IN LOCAL AUTHORITY'S DEFAULT OR IN EMERGENCY.

##### Administrator's Powers of Nomination in certain Circumstances.

153. (1) (a) Pending the first election of councillors for any newly constituted municipality the Administrator may, for the purposes of this Ordinance, by proclamation in the *Provincial Gazette*, nominate and appoint such number of fit and proper persons as he shall select, not being less than five nor more than seven, to form a council with jurisdiction over any area which, under the said Ordinance—

(i) has been constituted a new municipality for the first time, or

(ii) has been severed from a municipality (of which it originally formed a part) and constituted a separate municipality.

(b) Every such nominated council shall exercise all or any of the powers and authorities and shall carry out the duties conferred or imposed on a council by this Ordinance or under any other law subject to the obligations attaching to the exercise thereof.

\* As amended by section *sixteen* of Ordinance No. 12 of 1941.

(c) The persons so nominated and appointed may or may not be persons resident within the municipality.

(d) Notwithstanding anything to the contrary in any law contained the period of office of every such nominated council shall be from the date of the proclamation aforesaid until the date upon which a council shall be elected for the municipality in manner provided in any law providing for the holding of a first election of a council unless the appointment of any person shall have been previously cancelled by the Administrator. Every such nominated council shall be dissolved upon such latter date.

(e) Notwithstanding anything to the contrary in this Ordinance contained, whenever any area has been severed from a municipality and constituted a separate municipality as aforesaid, the Administrator may by proclamation in the *Provincial Gazette* declare that all by-laws and regulations which at the date of such severance were operative in the area shall notwithstanding such severance have the same force and effect in the said separate municipality, as if promulgated under the law for such separate municipality until altered or amended under the provisions of this Ordinance.

(2) If any local authority shall at any time neglect to hold a meeting for the space of ninety days, the Administrator may dissolve such local authority and nominate and appoint by proclamation in the *Provincial Gazette* such number of fit and proper persons as he shall select, not being less than five nor more than seven, to form such local authority for the purposes of this Ordinance, and every such nominated local authority shall be competent to exercise and is hereby required to exercise all and singular, the powers and authorities vested under this Ordinance in the local authority which has been so dissolved, provided that—

(a) the persons so nominated and appointed need not be persons resident within the area of jurisdiction of such local authority;

(b) every nominated local authority shall notwithstanding anything to the contrary contained in this Ordinance or any law providing for the election of such local authority, continue to sit until it be dissolved by proclamation of the Administrator in the *Provincial Gazette*, and prior to such dissolution a local authority shall be elected for the area aforesaid at such date as may be notified by the Administrator, and in manner provided in this Ordinance or any law providing for the holding of a first election of a local authority.

#### **Health Officer for the Union may Enter upon and Inspect all Premises.**

154. For the purpose of making such inquiries and investigations into matters relating to public health as he may deem expedient to inquire into, any officer of the Department of Public Health of the Union (hereinafter in this Ordinance referred to as the Department), deputed thereto by the Minister, shall have and is hereby given, for any area of jurisdiction of a local authority, all such powers of inspection and entry as are by this Ordinance conferred on a town council and on the officers of a town council.

#### **Sanitary Control of Surface and Underground Mine Workings.**

155. (1) It shall be the duty of a local authority if so required by the Administrator, to appoint some person duly qualified in sanitary work and approved by the Minister, to make regular and systematic inspections of the underground and surface workings of any mine within the area of jurisdiction of such local authority. The person appointed shall, for the purpose of duties in connexion with such inspection, be styled a "mines sanitation inspector" and shall comply with such requests in connexion with the inspection of underground and surface workings of mines within the said area as may be made by or with the authority of any officer of the Department, deputed thereto by the Minister. It shall be the duty of such inspector to take cognizance of any law with regard to the sanitation of underground and surface workings of mines or any regulations made or instructions issued thereunder, and to report to the local authority, to any officer of the Department, deputed thereto by the Minister, and to any other public officer whose duty it is to enforce the observance of any such law, regulations, or instructions, any breach of or failure to comply with the same, and so far as he may be empowered to do so by such officer of the department or other public officer aforesaid, to take all steps necessary to enforce the observance of and compliance with the provisions of the said law, regulations, or instructions.

(2) Where an inspector is appointed under this section, the local authority shall not prosecute any person or partnership or company for any breach of by-laws or regulations made in respect of the sanitation of underground or surface workings of mines under the provisions of this Ordinance, unless the local authority shall first have obtained the consent of any officer of the Department, deputed thereto by the Minister, to undertake such prosecution.

(3) A mines sanitation inspector appointed under this section shall not be removed from his office by the local authority without the approval of the Minister.

(4) This section shall not apply to any local authority which has appointed a person, certified by the medical officer of health of such authority to be duly qualified in sanitary work, to carry out the duties hereby assigned to a mines sanitation inspector, and thereafter continues to employ to carry out such duties a person so certified, unless it shall appear to the Minister after due inquiry by a person appointed for the purpose that such duties are not being efficiently carried out in the area of jurisdiction of such authority; provided that the local authority shall be entitled to receive fourteen days' notice of an inquiry proposed to be held under this sub-section, and to be heard by the person appointed to conduct such inquiry.

#### **Power of Administrator where Local Authority Defaults in matters of Public Health.**

156. If any local authority shall fail to do or carry out any work or thing which it is or may be empowered under this Ordinance or any amendment thereof, to do or carry out, or shall fail to make, alter, revoke or enforce any by-laws or regulations on any matters upon which it is empowered under this Ordinance to make, alter revoke, and enforce by-laws or regulations, and such failure on the part of a local authority constitutes, in the opinion of any officer of the Department, deputed thereto by the Minister, a danger and menace to the health of the public within or without its area of jurisdiction, the Administrator may give notice to the local authority in default, requiring it to take measures within its powers under this Ordinance or any amendment thereof, to abate and remove such danger; and if such local authority fail to take and properly carry out the required measures, the Administrator, on satisfying himself that the local authority has so failed without reasonable cause, may—

(a) proclaim such regulations as may be necessary to abate and remove such danger, which regulations shall, until repealed by the Administrator, thereupon have the force and effect of law within the area of jurisdiction of the said local authority;

(b) authorize any person or persons to do or carry out any work or things and to expend such sum in so doing or carrying out works or things as to him may seem necessary provided that any money expended by the Administrator under this section shall be recoverable by the Administrator from the local authority on the order of any competent court in like manner as if the sum so expended was a loan secured on the property and revenues of the local authority under the provisions of section *fifty-two*; provided further that, in the case of a local authority for whose area of jurisdiction the provisions of the Local Authorities Rating Ordinance 1933 or any amendment thereof do not apply, the Administrator may proclaim that the provisions of that Ordinance or amendment thereof shall apply for the purposes of assessing property within the area of jurisdiction of the said local authority, and of levying assessment rates on such property of such amount and for such period as shall produce a sum equivalent to the expenditure incurred by the Administrator under and for the purposes of this section; in default of the said local authority the Administrator may cause such assessment to be made, levied and collected in all respects as such local authority is empowered to do.

#### **PART II.—RECONSTITUTION OF LOCAL AUTHORITIES.**

##### **Provision as to Acts Done before Passing of Ordinance.**

157. Where any acts have been done, notices given, or proceedings taken before the commencement of this Ordinance in accordance with the provisions of any law thereby repealed, and such acts, notices, or proceedings would if done, given, or taken after such commencement have been properly done, given, or taken, under this Ordinance, such acts, notices, and proceedings shall be deemed to have been done, given, or taken under this Ordinance.

##### **Transference of Liabilities and Rights.**

158. Whenever the council of any municipality or a health committee constituted under any law repealed by this Ordinance shall come under the operation of this Ordinance, the following provisions shall apply—

(1) All creditors of such council or committee shall have the same rights and remedies as if the law under which such rights and remedies were conferred had not been repealed;

(2) all works and undertakings authorized to be executed, all rights, liabilities, and engagements existing, and all actions, suits, and legal proceedings pending by or against or in respect of such council or committee, shall be vested in, attached to, and be enforced, carried on, and prosecuted by or against the local authority constituted under this Ordinance, and no such action, suit, or proceeding shall abate or be discontinued or be prejudicially affected by the operation of this Ordinance;

(3) all moneys due, or payable to, or recoverable by such council or committee shall be vested in and recoverable by the local authority constituted by this Ordinance;

(4) all property movable and immovable vested in or belonging to such council or committee or to which such council or committee was entitled at the commencement of this Ordinance, and all assets and claims to which such council or committee was entitled at such commencement shall be vested in and belong to the local authority constituted under this Ordinance;

(5) all valuation or assessment rolls lawfully compiled by any such council under the provisions of the Local Authorities Rating Ordinance, 1933 or any amendment thereof, shall continue in use (under the provisions of the said Ordinance or any amendment thereof) in respect of the municipality for which a council is constituted under this Ordinance;

(6) all privileges, powers, jurisdiction, and duties conferred or imposed on any such council or committee by any law, regulation, or by-law in force within the area of jurisdiction of such council or committee at the commencement of this Ordinance, and not repealed by this Ordinance, shall until the said law, regulation, or by-law be repealed under the provisions of any other law or of this Ordinance, be retained by the local authority constituted under this Ordinance in place of such council and committee.

#### **Procedure for Uniting Local Authorities.**

159. Notwithstanding anything to the contrary in any law contained the Administrator whenever he shall exercise the powers conferred upon him by sub-section (4) of section *nine* of this Ordinance of uniting any two or more townships, villages, municipalities or areas under the jurisdiction of different classes of local authorities so as to form one municipality may—

(1) by Proclamation in the *Provincial Gazette* name and determine the local authority under whose jurisdiction the united municipality shall be placed (hereinafter in this sub-section referred to as the principal local authority) and thereupon the principal local authority shall be and become the successor for all purposes of every other local authority whose area has been placed under the jurisdiction of the principal local authority and the following provisions shall apply—

(a) all creditors of any local authority shall have the same rights and remedies against the principal local authority as they possessed or were entitled to prior to the date of the said uniting;

(b) all works and undertakings authorized to be executed, all rights, liabilities and engagements existing, and all actions, suits and legal proceedings or prosecutions pending by or against or in respect of any local authority as at the said date shall as and from such date be executed, vested in, attached to and be enforced, carried on and prosecuted by or against the principal local authority and no such action, suit, proceeding or prosecution shall abate or be discontinued or be prejudicially affected by reason of the said uniting;

(c) all rates, charges and debts whatsoever owing, due or payable to or recoverable by any local authority as at the said date shall be vested in, payable to and recoverable by the principal local authority and all valuation or assessment rolls lawfully compiled by any local authority under the provisions of any Local Authorities Rating Ordinance, or any amendment thereof and in force at the said date shall continue in force and use in the respective areas within the area of jurisdiction of the principal local authority to which the same respectively apply until such time as the same shall be lawfully amended or new rolls shall be lawfully compiled by the principal local authority within the period prescribed under the provisions of any Rating Ordinance in respect of the rolls of the area of the principal local authority prior to the said date;

(d) all property movable and immovable vested in or belonging to any local authority or to which such local authority was entitled at the said date and all claims to which such local authority was entitled at the said date shall as and from such date be vested in and belong to the principal local authority and the Registrar of Deeds and any other official charged with the registration of documents affecting title to property shall upon the application of the town clerk of the principal local authority and production of the necessary title deeds or other documents insert the name of the principal local authority in place of the name of the other local authority in all registers under his control and endorse the transfer and vesting hereby effected on all title deeds, or other documents affecting title to property and on all bonds and other hypothecations filed of record in his office and do all things necessary to record and give full effect to the provisions of this sub-section;

(e) all privileges, powers, jurisdiction and duties conferred or imposed on any local authority by any law, regulation or by-law in force within the

area of jurisdiction of such local authority shall as from the said date and until the said law, regulation or by-law be lawfully repealed, amended or altered under the provisions of any other law or of this Ordinance be retained, attached to, enforced, carried out and performed by the principal local authority subject always, however, to the provisions of any order issued by the Administrator in terms of this section;

(2) make an order on any or all of the following matters—

(a) subject to such conditions as he may deem fit to impose the continued operation within any specified area or areas of any or all of the by-laws or regulations in force in any such area or areas immediately prior to incorporation within the united municipality for any specified period or until repealed, altered or amended by the principal local authority;

(b) during any period not exceeding three years from the date of the uniting of such several areas so as to form one municipality the levying of differential assessment rates in the several areas or the application of such rates to such areas or any particular area subject to limitations;

(c) the expenditure of revenues raised in any particular area for the benefit, purposes and services of that area only;

(d) the carrying out of the terms of any agreement entered into in regard to the taking over of employees by the principal local authority;

(e) generally any other matter or thing which he may, in his discretion, approve as being necessary or expedient for bringing about the uniting of any areas so as to form one municipality.

#### Existing By-laws and Regulations.

160. (1) The by-laws and regulations made in respect of the area of jurisdiction of any local authority under any law repealed by this Ordinance shall from the commencement of this Ordinance be of the same force and effect within such area as if they had been made under this Ordinance; provided that such by-laws and regulations be within the powers in this Ordinance conferred; and provided, further, that any such by-laws or regulations which have been validly made and promulgated under the provisions of any law repealed by this Ordinance and which are not authorised by the powers conferred by this Ordinance shall nevertheless and notwithstanding the provisions of this Ordinance remain of full force and effect for a period of twelve months from the date of the commencement of this Ordinance or until replaced by by-laws or regulations made and promulgated under the provisions of this Ordinance whichever is the shorter period.

(2) If any such by-law or regulation be *ultra vires* the law under which it was made, it shall nevertheless be upheld if it be within the powers in this Ordinance conferred.

#### PART III.—MISCELLANEOUS.

##### Copy of this Ordinance to be Open for Inspection.

161. It shall be the duty of the town clerk, in the case of a town or village council, or of the clerk to the committee in the case of a health committee, to keep open for inspection by any person at all reasonable times in the offices of the local authority, a true copy of so much of this Ordinance as is from time to time applicable within the area of jurisdiction of the local authority.

##### Administrator to be Furnished with Reports, etc.

162. (1) The local authority shall furnish the Administrator with a certified copy of any record or minute of its proceedings, or of the proceedings of any committee appointed by the local authority, or of a record of any accounts of the local authority, or such reports, statistics and documents as the Administrator may from time to time require.

(2) Minutes of the proceedings of each meeting of the local authority or of a committee thereof shall be forwarded by the local authority to the Administrator within ten days from the date on which such minutes were confirmed as prescribed in this Ordinance or in any by-law or regulation thereunder.

(3) It shall be the duty of every local authority to forward to the Administrator a copy of the annual report referred to in sub-section (2) of section *one hundred and thirty-one* of the Public Health Act, 1919 or any amendment thereof.

##### Persons Offending against Order of Notice under this Ordinance to be Deemed Guilty of Offence against Ordinance.

163. Where any matter or thing is by this Ordinance, or by any order or notice made and published under the authority thereof, directed or forbidden to be done, or where any authority is given by this Ordinance to any person to direct any matter or thing to be done, or to forbid any matter or thing to be done, and such act so directed to be done remains undone, or such act so forbidden to be done is done in every such case every person offending against such direction or prohibition shall be guilty of an offence against this Ordinance.

**Regulations made by the Administrator.**

164. Any regulations which the Administrator is by this Ordinance empowered to make—

(1) may provide penalties for the breach thereof in such manner and to the same extent as is allowed under the provisions of this Ordinance in the case of penalties for breach of by-laws;

(2) may be made applicable to any one or more local authorities, and regulations made by the Administrator for one local authority may be varied in their provisions and made applicable to any other local authority, provided that nothing in this section contained shall empower the Administrator to make any regulations for a health committee, which the provisions of Chapter IX of this Ordinance do not empower him to make for such committee;

(3) shall have the same force and effect of law within the area in respect of which they are made upon publication in the *Provincial Gazette* or upon such other date as the Administrator may fix and notify in the *Provincial Gazette* to be the date upon which the said regulation shall have the force and effect of law within the said area;

(4) may be amended, altered, and rescinded by publication of a notice in the *Provincial Gazette* in like manner as in sub-section (3) of this section is provided.

No such regulation shall be inconsistent with, contrary, or repugnant to the provisions of this Ordinance or of any other law in force within the area of jurisdiction of the local authority.

**Provision for Earlier Notification of Births.**

165. (1) In the case of every child born in the municipalities of Pretoria, Johannesburg, Germiston and Boksburg or in any other municipality to which the Administrator may by proclamation in the *Provincial Gazette* apply the provisions of this section it shall be the duty of the father of the child if he is actually residing in the house where the birth takes place at the time of its occurrence and of any person in attendance upon the mother at the time of, or within six hours after, the birth to give notice in writing of the birth to the medical officer of health in manner provided by this section.

(2) Notice under this section shall be given by posting within thirty-six hours after the birth a prepaid letter or post card addressed to the medical officer of health at his office giving the necessary information of the birth, or by delivering a written notice of the birth at the office of the medical officer within the same time; and the council shall supply without charge addressed and stamped post cards containing the form of notice to any medical practitioner or midwife residing or practising in the municipality who applies for the same.

(3) Any person who fails to give notice of a birth in accordance with this section shall be liable to a fine not exceeding five pounds (£5); provided that a person shall not be liable to a fine under this provision if he satisfies the court that he or she had reasonable grounds for believing that notice had been duly given by some other person.

(4) The notification required to be made under this Ordinance shall be in addition to and not in substitution for the requirements of any law relating to the registration of births; and any district or assistant district registrar of births and deaths whose district or any part thereof is situate within the municipality shall at all reasonable times have access to notices of births received by the medical officer of health under this Ordinance or to any book in which those notices may be recorded, for the purpose of obtaining information concerning births which may have occurred in his district.

(5) This section shall apply to any child which has issued forth from its mother after the expiration of the twenty-eighth week of pregnancy, whether alive or dead.

**Qualification of Sanitary Inspectors.**

166. Except in special cases approved by the Minister no person shall be permanently appointed by any local authority as sanitary inspector after the commencement of this Ordinance unless he be a certified sanitary inspector as defined by sub-section (2) of section *fourteen* of the Public Health Act, 1919 or any amendment thereof.

**Powers of Local Authorities Relating to Unsound Food.**

167. (1) The medical officer of health or any veterinary surgeon or any sanitary inspector approved for the purpose of this section by the local authority may at all reasonable times enter any premises within the area of jurisdiction of the local authority or search any cart or vehicle, or any barrow, basket, sack, bag, receptacle or parcel, in order to inspect and examine and he may inspect and examine—

(a) any animal, alive or dead, intended for human consumption which is exposed for sale, or deposited in any place or is in course of transmission for

the purpose of sale, or of preparation for sale or for the purpose of being supplied by an employer to his employees; and

(b) any article, whether solid or liquid, intended for human consumption and sold or exposed for sale, or deposited in any place or in course of transmission for the purpose of sale or of preparation for sale or for the purpose of being supplied by an employer to his employees; the medical officer of health or veterinary surgeon or sanitary inspector may seize and carry away by himself or with assistance any such animal or article which in his opinion is diseased or unsound or unfit for human consumption, and may detain for a reasonable time pending examination and inquiry any animal or article which is suspected of being diseased or unsound or unfit for human consumption.

A medical officer of health or any veterinary surgeon or any sanitary inspector approved as aforesaid may cut into any dead animal or article of food for the purpose of any examination under this section.

Any European member of a police force lawfully established in the Province shall have power to search carts or vehicles, or barrows, baskets, sacks, bags receptacles or parcels; and to assist generally in executing and enforcing this section.

(2) (a) The medical officer of health or where there is no medical officer of health a sanitary inspector acting with the approval of a district surgeon or other registered medical practitioner, may by writing under his hand order any animal or article which has been or is liable to be seized under this section to be destroyed or so disposed of as to prevent it from being exposed for sale or used for human consumption; provided that before making such order in respect of any living animal the medical officer of health or sanitary inspector, unless he is himself a qualified veterinary surgeon, shall obtain a certificate from a qualified veterinary surgeon if available that such animal is suffering from a disease the nature of which shall be specified in such certificate, and where such veterinary surgeon is not available may act as aforesaid on the authority of the magistrate.

(b) A veterinary surgeon approved as aforesaid may by writing under his hand order any living animal or any carcass or butcher's meat which has been or is liable to be seized under this section to be destroyed or so disposed of as to prevent it being exposed for sale or used for human consumption.

(3) (a) The person to whom any animal or article which has been or is liable to be seized under this section belongs or did belong at the time of sale or exposure for sale, or deposit or transmission for the purpose of sale, or of preparation for sale, or for the purpose of being supplied by an employer to his employees, shall be liable to a fine not exceeding fifty pounds or in default of payment to imprisonment not exceeding three months, for every animal, or article, or if the article consists of fruit, vegetables, corn bread or flour, for every parcel thereof so seized, unless he proves that he and the person acting on his behalf (if any) did not know and could not with reasonable care have known, that it was in such a condition, or, at the discretion of the court, if it finds that he has knowingly and wilfully committed the offence he shall be liable without the infliction of a fine to imprisonment for a term of not more than three months with or without hard labour and also to pay all expenses caused by the seizure, detention or disposal of such animal or article.

(b) The storing of any animal or article which has been or is liable to be seized under this section shall be deemed to be *prima facie* evidence of its exposure for sale, or deposit or transmission for the purpose of sale, or of preparation for sale or for the purpose of being supplied by an employer to his employees.

(4) Where a person convicted of an offence under this section has been within twelve months previously convicted of an offence under this section, the magistrate may, if he thinks fit, and finds that the offender knowingly and wilfully committed both such offences, order that a notice of the facts he affixed, in such form and manner and for such period not exceeding twenty-one days as the magistrate may order, to any premises occupied by that person, and that the person do pay costs of such affixing, and if any person obstructs the affixing of such notice, or removes, defaces, or conceals the notice while affixed during the said period, he shall for each offence be liable to a fine not exceeding five pounds or in default of payment to imprisonment not exceeding fourteen days.

(5) If the occupier of a licensed slaughter-house is convicted of an offence under this section the magistrate convicting him may cancel the licence for such slaughter-house.

(6) If any person obstructs a medical officer, veterinary surgeon, or sanitary inspector, approved as aforesaid, in the performance of his duty under this section he shall, where the magistrate is satisfied that the obstruction was with the intent to prevent the discovery of an offence under this section, or that the accused has within twelve months previously been convicted of such obstruction,



be liable to imprisonment for any term not exceeding one month in lieu of any fine authorized by this Ordinance for such obstruction.

#### Service of Notices and Documents.

168. Unless otherwise specially provided, whenever in this Ordinance or any by-law notice has to be given or any document has to be served, such notice may be given or such service effected by post and the provisions of section *eight* of Act No. 5 of 1910 shall apply.

#### Commissions.

169. The Administrator may at any time in his discretion appoint a commission consisting of one or more persons to inquire into any matter relating to or affecting any local authority, or local authorities generally, and to report to him thereon, and may confer on such commission the powers, jurisdiction and privileges of the Commissions Powers Ordinance, 1902 or any amendment thereof. Any such commission shall have the power to exclude the public and the press from any sitting or portion thereof.

#### Extraordinary Vacancies.

170. If at any time, through resignation, death or any other cause whatsoever the number of members of a town or village council or of a health committee falls below the number requisite for the proper carrying out by the said local authority, of its functions under this Ordinance the Administrator may until such time as the position may be cured under the provisions of the Municipal Elections Ordinance, 1927 or any amendment thereof or in any other way, make appointments to fill any such vacancy or vacancies and any person or persons appointed under the provisions of this section shall, for the period of the said appointment, be and remain members of the said local authority and the provisions of this Ordinance and of any other law in regard to members of local authorities shall apply to such person or persons.

#### Dissolution of Local Authorities if their Financial Position Deteriorates.

\*170*bis*. (1) The Administrator may whenever the finances of a local authority have in his opinion become unsound, instruct it to take such steps for restoring the position to a satisfactory basis as he may deem fit.

(2) In the event of the local authority failing to take the necessary steps in accordance with the Administrator's instruction within a period prescribed by the Administrator, he may by proclamation in the *Provincial Gazette* remove the persons who are then members of the local authority from office as from a specified date.

(3) The Administrator may in such proclamation or in any subsequent proclamation—

(a) order—

(i) if the local authority is a town council or a village council that a fresh election be held and that for the purposes of the election and for the purpose of fixing the period of office of the members of the local authority such fresh election be regarded as the first election of councillors of the municipality under the Municipal Elections Ordinance, 1927 (Ordinance No. 4 of 1927), or any amendment thereof;

(ii) if the local authority is a health committee that it be newly constituted in such manner as he may deem fit; or

(b) appoint one or more persons to manage the affairs of the local authority for a specified period.

(4) If a fresh election is held in terms of paragraph (a) of sub-section (3) the members who were removed from office shall not be eligible for re-election at such fresh election.

(5) If the Administrator appoints one or more persons in terms of paragraph (b) of sub-section (3) to manage the affairs of the local authority such person or persons shall be vested with all the rights and powers conferred on members of the local authority by this Ordinance.

(6) If the Administrator appoints a person or persons to manage the affairs of a local authority for a specified period a fresh election which shall for the purposes of the election and for the purpose of fixing the period of office of the members of the local authority be regarded as the first election of councillors under the Municipal Elections Ordinance, 1927, or any amendment thereof, shall, if the local authority is a town council or a village council, be held immediately on the expiration of such period. If the local authority is a health committee it shall immediately on the expiration of such period be newly constituted in such manner as the Administrator may deem fit.

#### Local Authorities Special Powers.

171. In addition to the powers in this Ordinance mentioned the Administrator shall have the power—

\* Added by section *six* of Ordinance No. 19 of 1943.

(a) by Proclamation in the *Provincial Gazette* to confer additional powers on local authorities generally or on any particular local authority for any purpose which is incidental to municipal government, and in his opinion, necessary or desirable and which is not contrary to the provisions of this Ordinance or of any other law;

(b) to prescribe by regulation the form of accounts and reports to be furnished to him under the provisions of section one hundred and sixty-two.

**Time Limit for Action.**

172. (1) All actions against a local authority shall be brought within six months of the time when the causes of such actions arose.

“(2) No such action shall be commenced unless written notice of the intention to bring such action shall have been served on the local authority at least thirty days before the action is commenced. Particulars as to the cause on which the action is based shall be clearly and explicitly stated in such notice.”

173. This Ordinance shall be known as the Local Government Ordinance, 1939, and shall come into operation on such date as the Administrator shall declare by proclamation in the *Provincial Gazette*.

\* Sub-section (2) added by section seven of Ordinance No. 19 of 1943.

FIRST SCHEDULE.

SECTION ONE.

*Laws Repealed.*

*Extent of Repeal.*

Ordinance No. 11 of 1926 (Local Government.....)	Whole.
Ordinance No. 4 of 1928 (Local Government Amendment).....	Whole.
Ordinance No. 20 of 1928 (Local Government Further Amendment).....	Whole.
Ordinance No. 4 of 1929 (Local Government Amendment).....	Whole.
Ordinance No. 15 of 1930 (Local Government Amendment).....	Whole.
Ordinance No. 16 of 1931 (Local Government Amendment).....	Whole.
Ordinance No. 20 of 1931 (Local Government Further Amendment).....	Whole.
Ordinance No. 11 of 1932 (Local Government Amendment).....	Whole.
Ordinance No. 10 of 1934 (Local Government Amendment).....	Whole.
Ordinance No. 14 of 1934 (Local Government Further Amendment).....	Whole.
Ordinance No. 4 of 1935 (Local Government Amendment).....	Whole.
Ordinance No. 9 of 1935 (Local Government Further Amendment).....	Whole.

SECOND SCHEDULE.

SECTION SIX (1).

COUNCILS OF MUNICIPALITIES CONSTITUTED UNDER THE LOCAL GOVERNMENT ORDINANCE, No. 11 OF 1926, WHICH SHALL BE TOWN COUNCILS UNDER THIS ORDINANCE.

The Council of the Municipality of—

Barberton.	Krugersdorp.	Randfontein.
Benoni.	Lichtenburg.	Roodepoort—Maraisburg.
Bethal.	Louis Trichardt.	Rustenburg.
Boksburg.	Lydenburg.	Springs.
Brakpan.	Middelburg.	Standerton.
Ermelo.	Nigel.	Vereeniging.
Germiston.	Pietersburg.	Volksrust.
Heidelberg.	Piet Retief.	Witbank.
Hercules.	Potchefstroom.	Wolmaransstad.
Johannesburg.	Potgietersrust.	Zeerust.
Klerksdorp.	Pretoria.	

THIRD SCHEDULE.

SECTION FIFTY.

FORM OF STATEMENT REFERRED TO IN SECTION FIFTY OF THIS ORDINANCE.

This is to certify that all sums due in accordance with section fifty of the Local Government Ordinance, \_\_\_\_\_, to the Town Council (Village Council) of \_\_\_\_\_ in respect of the premises or interest in land \_\_\_\_\_ registered in the name of \_\_\_\_\_ have been paid to the Council.

This certificate is available to \_\_\_\_\_ 19\_\_\_\_

Given under my hand at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ One thousand Nine hundred and \_\_\_\_\_

Town Clerk,

\_\_\_\_\_ Municipality.

## FOURTH SCHEDULE.

## SECTION ONE HUNDRED AND FOURTEEN.

COUNCILS OF MUNICIPALITIES WHICH SHALL BE VILLAGE COUNCILS  
CONSTITUTED UNDER THIS ORDINANCE.

The Council of the Municipality of—

Alberton.	Coligny.	Naboomspruit.
Amersfoort.	Duivelskloof.	Nelspruit.
Amsterdam.	Dullstroom.	Nylstroom.
Balfour.	Edenvale.	Rodeon.
Belfast.	Elsburg.	Sabie.
Bloemhof.	Greylingstad.	Schweizer Reneke.
Breyten.	Hendrina.	Ventersdorp.
Brits.	Koster.	Wakkerstroom.
Bronkhorstspuit.	Machadodorp.	Warmbaths.
Carolina.	Morgenzon.	White River.
Christiana.		

## FIFTH SCHEDULE.

## SECTION ONE HUNDRED AND TWENTY-THREE.

HEALTH COMMITTEES WHICH SHALL BE HEALTH COMMITTEES  
CONSTITUTED UNDER THIS ORDINANCE.

Alexandra Health Committee.	Lake Chrissie Health Committee.
Amalia Health Committee.	Leeuwoodsrust Health Committee.
Bedfordview Health Committee.	Leslie Health Committee.
Biesjesvlei Health Committee.	Maquassi Health Committee.
Charl Celliers Health Committee.	Messina Health Committee.
Davel Health Committee.	Meyerton Health Committee.
Delareyville Health Committee.	Ottosdal Health Committee.
Delmas Health Committee.	Paardekop Health Committee.
Devon Health Committee.	Pilgrims Rest Health Committee.
Eendracht Health Committee.	Pretoria North Health Committee.
Evaton Health Committee.	Ravensklip Health Committee.
Fochville Health Committee.	Rensburg Health Committee.
Graskop Health Committee.	Roosville Health Committee.
Groot Marico Health Committee.	Silverton Health Committee.
Hartebeestfontein Health Committee.	Trichard Health Committee.
Kempton Park Health Committee.	Tzaneen Health Committee.
Kinross Health Committee.	Witpoort Health Committee.
Klipfontein Health Committee.	Zoekmeaar Health Committee.

**No. 1 of 1940.—Additional Appropriation (1939-1940).****No. 2 of 1940.—Appropriation (Part 1940-1941).****No. 3 of 1940.—Unauthorized Expenditure (1937-1938).****No. 4 of 1940.—Unauthorized Expenditure (1938-1939).****No. 5 of 1940.—School Boards Elections.—*Obsolete.*****No. 6 of 1940.—Road Traffic Amendment.—*Principal Ordinance, No. 11 of 1934.****Section 1.—Amends section one of the Principal Ordinance.**Section 2.—Amends section four of the Principal Ordinance.**Section 3.—Substitutes a new section six in the Principal Ordinance.**Section 4.—Substitutes a new section sixteen in the Principal Ordinance and renumbers the existing section sixteen as seventeen.***No. 7 of 1940.—Pensions Supplementary.—*Awards Pensionable Benefits to Dr. G. E. Gevers and Miss S. G. Womble.*****No. 8 of 1940.—Municipal Elections Amendment.—*Repealed by section one of Ordinance No. 8 of 1941.***

## NATIVE FLORA PROTECTION.

**No. 9 of 1940.]**

(Assented to 12th April 1940.)

*(Date of Operation 29th May 1940.)**(Afrikaans Copy signed by Governor-General.)*

## AN ORDINANCE

## To Protect Certain Species or Kinds of Native Flora.

## Definitions.

Be it enacted by the Provincial Council of Transvaal as follows:—

1. In this Ordinance, unless inconsistent with the context—

“Administrator” means the officer appointed under section *sixty-eight* of the South Africa Act, 1909, acting with the consent of the Executive Committee of the Province of Transvaal;

“land” means land with or without buildings thereon;

“native plant” means any plant, shrub or tree, native to the Union of South Africa, and includes the flower, bulb, tuber, stem or root or any other part of such plant, shrub or tree;

“protected native flora” means any plant, shrub or tree, included in the Schedule to this Ordinance, or added thereto as hereinafter provided, and includes the flower, bulb, tuber, stem or root or any other part of such plant, shrub or tree;

“public road” means—

(a) any road established, proclaimed or recognised as such under the provisions of any law and includes bridges over which such road passes; and

(b) any road or thoroughfare, however created which, before or after the commencement of this Ordinance, has been in the undisturbed use of the public or which the public has had the right to use during a period of not less than three years and includes bridges over which such road passes; and includes—

(c) any street or thoroughfare and any other public place whatever open to the use of the public for purposes of vehicular traffic.

“sell” includes offering or exposing for sale, being in possession for purposes of sale, bartering, hawking and peddling.

**Powers of Administrator—Inclusion of Plants in Schedule as Protected Native Flora and Establishment of Native Flora Reserves.**

2. The Administrator may from time to time by proclamation in the *Provincial Gazette of the Province of Transvaal*—

(1) include in, or delete from the Schedule to this Ordinance, the name of any species or kind of plant, shrub or tree, native to the Union of South Africa;

(2) (a) establish one or more native flora reserves; Provided that the Administrator shall define the boundaries of any area so established as a native flora reserve, and fix the date from which it is to be a reserve;

(b) extend the boundaries of any native flora reserve, established in terms of paragraph (a) of this sub-section, or alter such boundaries, or cancel any such reserve, with effect from a stipulated date.

**Unlawful Plucking, etc., of Protected Native Flora.**

3. No person shall pluck, gather, cut, uproot, injure, break, or destroy any protected native flora; Provided that the owner or occupier of land, or any person authorised by such owner may (1) pluck, cut or uproot protected native flora which have been cultivated by such owner or occupier or on his specific instructions, on land specially set apart for such cultivation, (2) pluck, gather, cut, uproot, injure, break or destroy protected native flora on land which is *bona fide* required for purposes of farming or the erection of a building thereon; Provided further that the holder of a permit issued in terms of sub-section (1) of section *four* of this Ordinance may pluck, cut or uproot protected native flora as prescribed in such permit.

**Permits to Pluck, Cut or Uproot Protected Native Flora.**

4. (1) The Administrator or any person authorised by him, may issue a permit authorising the holder thereof to pluck, cut or uproot the species and quantities of protected native flora specified in such permit, in a locality and during a period likewise specified, subject to such other provisions as may be prescribed in such permit; Provided that—

(a) when the plucking, cutting or uprooting will take place on land of which the applicant is not the owner such permit may only be issued if the written permission of the owner of such land has been obtained;

(b) when the plucking, cutting or uprooting will take place on land which has been proclaimed by the Minister of the Interior under the provisions of paragraph (a) of section *eight* of the Natural and Historical Monuments, Relics and Antiques Act, 1934, such permit may only be issued after the written permission of the Commission for the Preservation of Natural and Historical Monuments, Relics and Antiques has been obtained;

(c) such permit shall not be issued for the plucking, cutting or uprooting of protected native flora on land along either side of a public road for spaces of fifty yards in width measured from the centre of such road, unless the Administrator or the person authorised by him finds that there are exceptional circumstances which justify the issue of such permit.

(2) Any person contravening or failing to comply with any provision contained in a permit issued in terms of sub-section (1) of this section, shall be guilty of an offence against this Ordinance, and liable, on conviction, to the penalties prescribed in section *twelve*.

**Unlawful Plucking, etc., of Native Plants in Native Flora Reserves.**

5. No person shall pluck, gather, cut, uproot, injure, break or destroy any native plant in a native flora reserve established in terms of sub-section (2) of section *two* of this Ordinance; Provided that the owner or occupier of land falling within the boundaries of such reserve, or a person authorised by such

owner, may pluck, gather, cut, uproot, injure, break or destroy those native plants which do not come under the definition of "protected native flora".

**Unlawful Sale of Protected Native Flora.**

6. No person shall sell any protected native flora; Provided that protected native flora which have been cultivated by the owner or occupier of land or on his specific instructions, on land specially set apart for such cultivation, may be sold by such owner or occupier or by a person authorised in writing by such owner or occupier; Provided further that the holder of a permit issued in terms of sub-section (1) of section *seven* of this Ordinance may sell protected native flora as prescribed in such permit.

**Permits to Sell Protected Native Flora.**

7. (1) The Administrator or any person authorised by him may issue a permit authorising the holder thereof to sell protected native flora. Such permit shall specify the species or kinds of protected native flora which may be sold by such person, and the locality where and the period during which such protected native flora may be sold, and any other provisions which the Administrator or any person authorised by him may prescribe.

(2) Any person contravening or failing to comply with any provision contained in any permit issued under sub-section (1) of this section, shall be guilty of an offence against this Ordinance, and liable, on conviction, to the penalties prescribed in section *twelve* of this Ordinance.

**Cancellation of Permits.**

8. The Administrator or any person authorised by him may at any time cancel a permit issued in terms of sub-section (1) of section *four* or sub-section (1) of section *seven* of this Ordinance.

**Seizure of Protected Native Flora or Native Plants.**

9. Any member of the South African Police Force, may, on reasonable grounds of suspicion that any protected native flora or native plants in the possession of any person have been plucked, gathered, cut, uprooted, or sold unlawfully, seize and impound such protected native flora or native plants.

**Persons in Possession of Protected Native Flora or Native Plants in Native Flora Reserves to give Names and Addresses.**

10. (1) Whenever any person is found in possession of protected native flora or native plants within the boundaries of a native flora reserve, established under sub-section (2) of section *two* of this Ordinance, the owner or occupier of such land or any person appointed in writing by such owner or occupier or any member of the South African Police Force may call upon such person to furnish his full name and address.

(2) Any person who when called upon under the provisions of sub-section (1) of this section to furnish his name and address, fails or refuses to do so, or furnishes a false or incorrect name and address, shall be guilty of an offence against this Ordinance, and liable, on conviction, to a fine not exceeding £15, and in default of payment to imprisonment with or without hard labour for a period not exceeding two months.

**Presumptions.**

11. Any person who has or had custody of or who is or has been in possession of or who handles, carries or conveys, or who has handled, carried or conveyed, or who causes or has caused to be handled, carried or conveyed any protected native flora or native plants shall, whenever there is a reasonable suspicion that such protected native flora or native plants have been plucked, gathered, cut or uprooted unlawfully, be deemed to have plucked, gathered, cut or uprooted such protected native flora or native plants in contravention of the provisions of this Ordinance, unless the contrary is proved.

**Penalties.**

12. Any person who contravenes or fails to comply with any provision of this Ordinance shall be guilty of an offence, and shall, if no penalty is expressly provided in this Ordinance for such contravention or failure, be liable, on conviction, to a fine not exceeding £25, and in default of payment to imprisonment with or without hard labour for a period not exceeding three months. In addition to such penalty the Court may (1) order that any protected native flora in connection wherewith the offence was committed be forfeited to the Crown, (2) cancel any permit issued to such person in terms of sub-section (1) of section *four* or sub-section (1) of section *seven* of this Ordinance.

**Application of Fines.**

13. Every fine imposed for a contravention of this Ordinance shall be paid into the Provincial Revenue Fund.

**Short Title.**

14. This Ordinance may be cited as the Native Flora Protection Ordinance, 1940.

SCHEDULE.

English Common Name.	Afrikaans Common Name.	Scientific Name.
Aloes.....	Alwyne.....	<i>Aloe</i> spp.
Arum lilies.....	Varkblomme.....	<i>Zantedeschia</i> spp.
Barberton Daisy.....	Barbertonse madellefie.....	<i>Gerbera Jamesoni</i> Bolus.
Cape Primrose.....	Kaapse primula.....	<i>Streptocarpus</i> spp.
Cycads.....	Kafferbroodboome.....	<i>Encephalartos</i> spp.
Cyrtanthus or Fire Lilies.....	Lelies of Vuurlelies.....	<i>Cyrtanthus</i> spp.
Gla dioli.....	Afrikanertjies.....	<i>Gladiolus</i> spp.
Maidenhair Fern.....	Fynblaarvaring.....	<i>Adiantum capillus-veneris</i> Linn
Ner'in as.....	Nerinas.....	<i>Nerine</i> spp.
Pain t-brush or Pin-cushions.....	Speldekussing.....	<i>Haemanthus</i> spp.
Red Hot Pokers.....	Vuurpyle.....	<i>Kniphofia</i> spp.
Stapeliads.....	Bokhorinkies.....	<i>Riocrocea</i> spp.
		<i>Ceropegia</i> spp.
		<i>Brachystelma</i> spp.
		<i>Caralluma</i> spp.
		<i>Huernia</i> spp.
		<i>Stapelia</i> spp.
		<i>Duvalia</i> spp.
		<i>Lithops</i> spp.
		<i>Frithia</i> spp.
Stone Plants.....	Vygies.....	<i>Cyathea Dregei</i> Kze <i>Hemiletia</i>
Tree Ferns.....	Boomvarings.....	<i>capensis</i> (L.fil.) Klf.
Water Lilies.....	Waterlelies.....	<i>Nymphaea</i> spp.
Watsonias.....	Pypies.....	<i>Watsonia</i> spp.

**No. 10 of 1940.—Johannesburg Municipality Borrowing Powers Amendment.**

Section 1.—Amends section thirty-three of Ordinance No. 3 of 1903.

**No. 11 of 1940.—Roads Amendment.—Principal Ordinance, No. 9 of 1933.**

Section 1.—Amends section two of the Principal Ordinance.

Section 2.—Substitutes new sub-sections (2) and (3) to section seven of the Principal Ordinance.

Section 3.—Amends section ten of the Principal Ordinance.

Section 4.—Amends section eighteen of the Principal Ordinance.

Section 5.—Amends section thirty-nine of the Principal Ordinance.

Section 6.—Amends section fifty-nine of the Principal Ordinance (since repealed and substituted by Ordinance No. 12 of 1943.)

Section 7.—Amends section sixty-three of the Principal Ordinance.

Section 8.—Amends section sixty-four of the Principal Ordinance.

Section 9.—Amends section ninety-eight of the Principal Ordinance by the addition of a new sub-section (2).

Section 10.—Short title.

**No. 12 of 1940.—Local Government Superannuation Amendment.**

Section 1.—Amends section twelve of the Principal Ordinance (No. 16 of 1930).

Section 2.—Short Title.

**No. 13 of 1940.—Companies Tax Amendment.**

Section 1.—Amends section three of Ordinance No. 13 of 1938.

Section 2.—Short Title.

**No. 14 of 1940.—Horse Racing and Betting Amendment.**

Section 1.—Amends section eight of Ordinance No. 9 of 1927.

Section 2.—Short Title.

**No. 15 of 1940.—Entertainments Tax Amendment.**

Section 1.—Amends section two of Ordinance No. 19 of 1931.

Section 2.—Short Title.

DOG RACING.

No. 16 of 1940.]

[Assented to 2nd July 1940.]

(Date of operation 1st July 1940.)

(English copy signed by Governor-General.)

AN ORDINANCE

To Provide for the Control of Dog Racing and Betting.

BE IT ENACTED by the Provincial Council of Transvaal as follows:—

**Definitions.**

1. In this Ordinance, unless inconsistent with the context—

“Administrator means the officer appointed under section sixty-eight of the South Africa Act, 1909, acting with the consent of the Executive Committee of the Province of Transvaal;

“bet” means the staking of any money or valuable thing by or on behalf of or expressly or impliedly promised, undertaken or agreed to be paid or given to any person as or for the consideration for any assurance, undertaking, promise or agreement, express or implied, to pay or give thereafter any money or valuable thing on any event or contingency of or relating to any dog race, or as or for the consideration for securing the paying of any money or valuable thing on any such event or contingency,

and "betting" has a corresponding meaning;

"bookmaker" means any person duly licenced as such under the Licencing of Bookmakers and Taxation Ordinance, 1925, and includes any person who carries on the business of or acts as a bookmaker, or who gains or endeavours to gain his livelihood wholly or partly by betting or making wagers;

"dog race" includes any whippet race;

"financial year" means the period commencing on the 1st day of April of any year and ending on the next succeeding 31st day of March;

"person" includes any company incorporated or registered as such under any law and any body of persons corporate or incorporate;

"premises" includes any dwelling house, building, room, office, outhouse, structure, shed, tent, land, enclosure, vehicle, boat, space, street, road, thoroughfare, lane, park, square or recreation ground;

"race meeting" means any gathering of the public or of the members of any association of persons to watch a dog race or races if the date and place of holding the same have been notified by public advertisement or private invitation;

"totalizator" means the instrument, machine, or contrivance commonly known as a "totalizator" 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.

#### **Holding of Dog Races without Licence is Unlawful.**

2. Any person who holds or arranges or organises a dog race shall, unless he is the holder of a licence issued in terms of sub-section (1) of section *three*, be guilty of an offence and liable, on conviction, to a fine not exceeding two hundred pounds, and in default or payment to imprisonment, with or without hard labour, for a period not exceeding twelve months, or to such imprisonment without the option of a fine, or to both such fine and imprisonment.

#### **Licences to hold Dog Races.**

3. (1) The Administrator may from time to time issue licences authorising the holders thereof to hold dog race meetings in accordance with the provisions of this Ordinance.

(2) (a) The fee payable for a licence issued in terms of sub-section (1) of this section shall be fifteen pounds and such licence shall be valid for a period of one year from the date on which it was issued or for such shorter period as may be specified by the Administrator in such licence, unless such licence is cancelled at an earlier date under section *fourteen*. On the expiry of such licence the holder thereof may apply to the Administrator for the issue of a new licence under sub-section (1) of this section.

(b) Any person who holds any race meeting after the expiry of his licence shall be liable to prosecution under section *two*. In the event of such offence occurring within twelve months of such date of expiry such person shall, if he fails to obtain a new licence within thirty-one days of such date of expiry, be further liable to payment of an amount of fifteen pounds in respect of licence fees, whether a new licence is issued to him or not, plus a penalty of ten per cent. on such licence fee for every month or part of a month between the date on which the amount of fifteen pounds is paid and such date of expiry. When such person is convicted of the offence of contravening section *two*, the Court convicting him may order him to pay such licence fee and the said ten per cent. thereof. If such an order is made it shall have the effect of a civil judgment of that Court and shall be executable in the same manner as such judgment.

(3) The maximum number of race meetings which may be held during the currency of a licence issued in terms of sub-section (1) of this section, and the race-course on which such race meetings shall be held, shall be specified in such licence; Provided that not more than one race meeting shall be held during any one week.

#### **Provisions to which Licences are Subject.**

4. (1) Every licence issued under sub-section (1) of section *three* shall be subject to the following provisions and to such other provisions as may be prescribed by the Administrator when issuing such licence:—

(a) Not more than one race meeting shall be held in any one week;

(b) No race meeting shall be commenced before 7 p.m. or continued after 11 p.m. on any day.

(c) Race meetings must be held on either a Wednesday night or a Friday night between the hours of 7 p.m. and 11 p.m. and shall not be held on any other night; Provided that no race meeting shall be held on the night of Christmas Day or on the night of Good Friday.

(d) No person under the age of twenty-one years, other than an employee of the holder of such licence, shall be allowed to attend or to witness any dog race.

(e) No person other than the holder of such licence shall be permitted to hold race meetings on the race course mentioned in such licence.

(f) Such licence shall not be transferable except with the special sanction of the Administrator.

(g) Such licence shall be produced on demand of any police officer of or above the rank of Sergeant.

(h) No bookmaker shall be permitted to operate at any race meeting.

(2) The Administrator may, in his discretion, vary paragraphs (b), (c) or (h) of sub-section (1) of this section in respect of any licence for whippet racing only; Provided that no whippet race meeting shall be held on Christmas Day or on Good Friday or on Ascension Day, or in the evenings of these days.

#### Control of Dissemination of Information as to Betting.

\*4bis. No person shall within the Province of Transvaal in any manner publish any information concerning betting within the Province of Transvaal upon the result of any dog race before such result has been determined, whether such dog race be run within or outside the Province. The provisions of this section shall not apply to newspapers in respect of which a certificate has been issued in accordance with the provisions of section *three* of the Newspaper and Imprint Act, 1934 (Act No. 14 of 1934), nor to race cards circulated on the race course on the day of the race by or on the authority of the holder of a licence issued in terms of sub-section (1) of section three of this Ordinance.

#### Penalties for Contraventions of Provisions to which Licences to hold Dog Races are subject.

5. Any holder of a licence issued under sub-section (1) of section three who—

(a) holds or arranges or organises more than one race meeting during any one week; or

(b) holds or arranges or organises any race meeting in excess of the maximum number specified in such licence; or

(c) holds or arranges or organises any race meeting on any race course other than that specified in such licence; or

(d) contravenes or fails to comply with any of the other provisions to which such licence is subject;

shall be guilty of an offence and liable, on conviction, to a fine not exceeding one hundred pounds and in default of payment to imprisonment, with or without hard labour for a period not exceeding six months.

#### Issue of Licences to Operate Totalizers.

6. (1) The Administrator may grant to the holder of any licence issued under sub-section (1) of section *three* a further licence to operate a totalizer or totalizers at any race meeting upon an approved site on the race course specified in the licence issued under sub-section (1) of section *three*.

(2) A totalizer's licence, issued to a person in terms of sub-section (1) of this section, shall expire on the date of expiry of his licence issued under sub-section (1) of section *three*.

#### Ticket Boards.

7. Every transaction which takes place on the totalizer shall be registered on a ticket board which shall be in such form as is approved by the Commissioner for Inland Revenue. Such ticket board shall be in the uninterrupted view of the public.

#### Amounts to be Paid by Holders of Totalizer's Licences.

8. (1) The holder of any totalizer's licence issued under sub-section (1) of section *six* shall pay to the Commissioner for Inland Revenue for the benefit of the Provincial Revenue Fund:—

(a) A duty calculated on the gross takings of each such totalizer during the period 1st July, 1940, to the 31st March, 1941, at the following rates:—

Upon so much of such gross takings as do not exceed £250,000 during such period: 5 per cent.;

Upon so much of such gross takings as exceeds £250,000 but does not exceed £750,000 during each such period: 7½ per cent.;

Upon so much of such gross takings as exceeds £750,000 during such period: 8 per cent.;

(b) A duty calculated on the gross takings on each such totalizer during each financial year from and after the first day of April, 1941, at the following rates:—

Upon so much of such gross takings as do not exceed £400,000 during such financial year: 5 per cent.;

Upon so much of such gross takings as exceed £400,000 but do not exceed £750,000 during such financial year: 7½ per cent.;

\* Added by section *one* of Ordinance No. 7 of 1942.



Upon so much of such gross takings as exceed £750,000 during such financial year: 8 per cent.;

(c) On the net takings of each such totalizator which, after a dividend therefrom has been declared, are undistributed because no fractional part of a shilling or any other sum is declared or paid as dividend, or because no tickets entitling the holders thereof to a dividend were disposed of, a duty calculated on the gross amount of such fractional parts and dividends not disposed of during the period 1st July, 1940, to the 31st March, 1941, and thereafter on such gross amounts during each financial year, at the following rates:—

Upon so much of such net takings as does not exceed £5,000 during such period or financial year: 20 per cent. of such annual totals;

Upon so much of such net takings as exceeds £5,000 during such period or financial year: 80 per cent. of such annual totals;

Provided that for the period ending the 30th June, 1940, the rates as provided by section *one* of the Whippet Racing (Control) Amendment Ordinance 1939 (Ordinance No. 15 of 1939) shall continue to be paid.

\* (2) The holder of a totalizator's licence may deduct a commission calculated on the gross takings of a totalizator operated on each dog race at any race meetings, provided that such commission, together with the duty payable in terms of paragraph (a) or paragraph (b) as the case may be of sub-section (1) of this section, shall not exceed 12½ per cent. of such gross takings.

(3) For the purposes of this section "net takings" shall mean the gross takings of the totalizator operated on each dog race at any race meeting less the commission which may be deducted in terms of sub-section (2) and the duty payable under paragraph (a) or paragraph (b), as the case may be of sub-section (1).

#### **Security to be given by Holders of Totalizator's Licences.**

9. The Administrator may—

(a) demand that the holder of any totalizator's licence issued under sub-section (1) of section *six*, shall forthwith give such security as the Administrator may deem necessary for the due payment of any amounts which may become payable in terms of section *eight*;

(b) cancel such licence upon failure of the holder thereof to furnish such security forthwith on demand.

#### **Returns and Statements to be Submitted by Licensees.**

10. (1) Every holder of a totalizator licence issued under sub-section (1) of section *six* shall within fourteen days of each race meeting submit to the Commissioner for Inland Revenue, on such forms as may be prescribed by him, a sworn statement for the purpose of determining the amount of duty payable in terms of section *eight*.

(2) The sworn statements referred to in sub-section (1) of this section shall disclose the gross takings of each totalizator at each race meeting and the amount of the net takings of such totalizators which are undistributed in the circumstances mentioned in paragraph (c) of sub-section (1) of section *eight*. To these shall be added the totals of the gross takings and of the net takings undistributed as aforesaid which have already been disclosed in the said sworn statements furnished in respect of race meetings held during the period 1st July, 1940, to the 31st March, 1941, or each financial year as the case may be and duty in accordance with section *eight* shall be calculated upon the totals so obtained and such duty shall at the same time be paid less any amount which may already have been paid in respect of such period or the same financial year.

(3) If any holder of a totalizator's licence, issued under sub-section (1) of section *six*, fails to transmit the aforementioned statements within the time prescribed by this section, the Commissioner for Inland Revenue may levy a penalty on him in an amount not exceeding treble the amount due under section *eight*.

#### **Records to be kept by Holders of Totalizator's Licences.**

11. The holder of any totalizator's licence, issued under sub-section (1) of section *six*, shall enter, or cause to be entered regularly in a book kept for the purpose, all the particulars required by section *ten*, and shall permit the inspection of such book at all reasonable times by any person duly authorised thereto in writing by the Commissioner for Inland Revenue.

#### **Operation of Totalizators without Licences is Unlawful.**

12. Any person who operates a totalizator at any race meeting, or who permits such operation without being the holder of a totalizator's licence issued under sub-section (1) of section *six* shall be guilty of an offence and liable, on conviction, to a fine not exceeding one hundred pounds and in default of payment to imprisonment, with or without hard labour, for a period not exceeding twelve months.

\* As amended by section *one* of Ordinance No. 6 of 1941.

**Betting Otherwise than by Means of Totalizators.**

13. Any person who at any time bets upon the result of any dog race otherwise than by means of a totalizator in respect of which a licence has been issued under sub-section (1) of section *six*, shall be guilty of an offence and liable, on conviction, to a fine of not less than twenty-five pounds but not exceeding fifty pounds, and in default of payment to imprisonment, with or without hard labour, for a period not exceeding six months, or to such imprisonment without the option of a fine, or to both such fine and imprisonment,

**Cancellation of Licences.**

14. The Administrator may at any time cancel any licence issued under sub-section (1) of section *three* or sub-section (1) of section *six* in the event of the holder of any such licence being convicted of an offence against this Ordinance.

**No Premises to be kept or used for Purposes of Betting.**

15. (1) No premises shall be kept, used or opened by any person for the purpose of betting upon the result of a dog race, whether as principal or agent for any other person, or for any purpose connected with such betting; Provided that this section shall not apply to a person lawfully keeping, using or opening any premises for purposes of betting in accordance with a licence issued under sub-section (1) of section *six*.

(2) Any person who keeps uses or opens such premises for any such purpose or who permits the same to be kept, used or opened by any other person for any such purpose, or who has the care or management of, or who in any way assists in conducting the business of any such premises kept, used or opened for any such purpose, shall be guilty of an offence and liable, on conviction—

(a) in the case of a first conviction, to a fine of not less than one hundred pounds, but not exceeding two hundred pounds and in default of payment to imprisonment, with or without hard labour, for a period not exceeding three months, or to such imprisonment without the option of a fine, or to both such fine and imprisonment;

(b) in the case of a second or subsequent conviction, to a fine of not less than two hundred pounds but not exceeding five hundred pounds and in default of payment to imprisonment, with or without hard labour, for a period not exceeding six months, or to such imprisonment without the option of a fine, or to both such fine and imprisonment.

(3) Any person who is in or on any such premises without lawful excuse shall be guilty of an offence and liable, on conviction, to a fine of not less than twenty-five pounds, but not exceeding fifty pounds, and in default of payment, to imprisonment, with or without hard labour, for a period not exceeding six months, or to such imprisonment without the option of a fine, or to both such fine and imprisonment.

(4) All moneys, coins, notes, cheques, bills, I.O.U.'s, good fors or other writings securing or evidencing an undertaking for the payment of money, and all books, lists, cards, and other documents relating to dog racing or betting, found in such premises, shall, on conviction of any person for a contravention of this section, be forfeited to the Administrator.

**Powers of Police.**

16. Any police officer of or above the rank of Sergeant shall have the right at any time to enter upon any race-course used for dog racing.

**Resisting, Hindering or Obstructing the Police.**

17. Any person who resists or hinders or obstructs any police officer in the execution of his powers or duties under this Ordinance, shall be guilty of an offence and liable, on conviction, to the penalties prescribed in section *nineteen*.

**Presumptions.**

18. In any proceedings against any person under section *fifteen*—

(a) consideration for securing the paying or giving by some other person of any money or valuable thing shall be deemed to have passed unless the contrary is proved;

(b) any premises entered under a search warrant shall, whenever any books, accounts, betting slips, prize lists or other documents relating to betting transactions are found in or on such premises, be deemed to be kept or used by the accused person for the purpose of betting or for purposes connected with betting, unless the contrary is proved;

(c) it shall be deemed that the accused person had no lawful excuse for having been in or on the premises in question, unless the contrary is proved.

**General Penalties.**

19. Any person who contravenes or fails to comply with any provision of this Ordinance shall be guilty of an offence and shall, if no penalty is expressly provided in this Ordinance for such contravention or failure, be liable, on conviction; to a fine not exceeding fifty pounds and in default of payment

to imprisonment, with or without hard labour, for a period not exceeding six months.

#### Application of Fines.

20. Every fine imposed for a contravention of any of the provisions of this Ordinance shall be paid into the Provincial Revenue Fund.

#### Rewards to Informers.

20bis. Notwithstanding anything to the contrary in any other law contained, any person other than a person in the service of the State who gives information which leads to conviction and to the infliction of any forfeiture or fine under the provisions of this Ordinance, may at the discretion and under the written authority of the Commissioner of the South African Police be paid by the Accounting Officer of the Transvaal Provincial Administration a monetary reward not exceeding one-third of both the monies forfeited and fines inflicted and received.

#### Repeals of Ordinances.

21. The Ordinances specified in the Schedule to this Ordinance are hereby repealed to the extent set out in the third column of that Schedule.

#### Licences in Existence on the 1st July, 1940.

22. All licences to hold race meetings and to operate totalizators issued prior to the coming into operation of this Ordinance shall be subject to the provisions of this Ordinance.

#### Date of Operation.

23. This Ordinance shall come into operation on the first day of July, 1940.

#### Short Title.

24. This Ordinance may be cited as the Dog Racing Ordinance, 1940.

\* Added by section two of Ordinance No. 7 of 1942.

### SCHEDULE.

#### LAWS REPEALED.

<i>No. and Year of Ordinance</i>	<i>Short Title of Ordinance.</i>	<i>Extent of Repeal.</i>
No. 3 of 1926.....	Whippet Racing (Control) Ordinance, 1926	The whole.
No. 9 of 1927.....	Horse Racing and Betting Ordinance, 1927	So much as relates to or affects dog racing.
No. 15 of 1933.....	Whippet Racing (Control) Amendment Ordinance, 1933	The whole.
No. 8 of 1934.....	Whippet Racing (Control) Amendment Ordinance, 1934	The whole.
No. 11 of 1939.....	Horse Racing and Betting Amendment Ordinance, 1939	So much as relates to or affects dog racing.
No. 15 of 1939.....	Whippet Racing (Control) Amendment Ordinance, 1939	The whole.

**No. 17 of 1940.—Licensing of Bookmakers and Taxation Amendment.—Principal Ordinance, No. 26 of 1925.)**

*Section 1.—Amends section six of the Principal Ordinance by the substitution of a new section six.*

*Section 2.—Substitutes a new section eight to the Principal Ordinance.*

*Section 3.—Amends section nine of the Principal Ordinance*

*Section 4.—Short Title.*

**No. 18 of 1940.—Appropriation (1940-1941).**

**No. 19 of 1940.—Transvaal Teachers' Pensions Amendment—Principal Ordinance, No. 17 of 1927.)**

*Section 1.—Amends sections one, two and three of the Principal Ordinance.*

*Section 2.—Amends section two of the Principal Ordinance by the substitution of new paragraphs (a) and (b) in sub-section (1).*

*Section 3.—Fixes the date of operation of this Ordinance as the 1st April, 1940.*

*Section 4.—Short Title.*

**No. 20 of 1940.—Public Hospitals Amendment.—Principal Ordinance, No. 18 of 1928.)**

*Section 1.—Amends section nine of the Principal Ordinance.*

*Section 2.—Amends section twenty-nine of the Principal Ordinance.*

*Section 3.—Amends section thirty of the Principal Ordinance.*

*Sections 4 to 10.—Substituted by the Public Hospitals Amendment Ordinance, 1943.*

*Section 11.—Amends section eighty-two of the Principal Ordinance.*

*Section 12.—The provisions of this section are now embodied in section seventy-one (3) (b) as substituted by the Public Hospitals Amendment Ordinance, 1943.*

*Section 13.—Short Title.*

## MUNICIPAL ELECTIONS SUSPENSION.

(Date of operation 31st July 1940.)

(English copy signed by Governor-General.)

## AN ORDINANCE

**To Suspend the Operation of Certain of the Provisions of the Municipal Elections Ordinance, 1927, as amended, and of the Local Government Ordinance, 1939.**

BE IT ENACTED by the Provincial Council of the Transvaal as follows:—

**Interpretation of Terms.**

1. In this Ordinance, unless inconsistent with the context—

“Active Service” shall mean military service with the troops of the Union of South Africa or of the United Kingdom of Great Briton and Ireland;

“Administrator” shall mean the officer appointed under sub-section (1) of section *sixty-eight* of the South African Act, 1909, and any amendment thereof acting on the advice and with the consent of the Executive Committee of the Province;

“Councillor” shall mean a person duly elected as a member of a town council;

“Gazette” shall mean the Official Gazette of the Province of the Transvaal;

“Principal Ordinance” shall mean the Municipal Elections Ordinance, No. 4 of 1927, and any amendment thereof;

“Town Council” shall mean a council constituted under and by virtue of the Provisions of Chapter 1 of the Local Government Ordinance, 1939, and shall include a village council and health committee as in that Ordinance defined.

**Suspension of Certain Provisions of section *six* of Ordinance No. 4 of 1927, as amended by section *one* of Ordinance No. 8 of 1940.**

2. Notwithstanding anything to the contrary in the principal ordinance contained it shall be lawful for the Administrator by proclamation in the *Gazette* to suspend the provisions of section *six* of the principal ordinance as amended by the Municipal Elections Amendment Ordinance, 1940, insofar as they provide for the disqualification of councillors who are in arrear with the payment of rates and taxes in the circumstances mentioned in section *one* of the Municipal Elections Amendment Ordinance, 1940, in respect of all councillors for the period they are on active service.

**Suspension of Annual Municipal Elections.**

3. (1) Notwithstanding anything in section *twenty-four* of the principal ordinance contained it shall be lawful for the Administrator by proclamation in the *Gazette* to suspend the annual election of councillors due to take place on the last Wednesday in October of the year 1940 and to extend the period of office of each councillor which would normally have expired in the said year 1940 for a further period of one year.

(2) Notwithstanding anything in section *twenty-five* of the principal ordinance contained, it shall be lawful for the Administrator by proclamation in the *Gazette* to extend the period of office for which councillors have been elected at an annual election to fill vacancies in the circumstances mentioned in the said section for a period of one year; Provided that nothing in this sub-section contained shall be construed as extending the period of office of councillors due to retire by effluxion of time in 1940 beyond the period extended by sub-section (1) of this section.

(3) Each councillor whose period of office has been extended in terms of this section shall be deemed to have been re-elected in terms of the principal ordinance for the further period of one year for which his period of office has been so extended.

**Suspension of the Provisions of section *twenty-four* of Ordinance No. 17 of 1939, in Certain respects.**

4. Where on account of the absence of councillors on active service the number of councillors remaining is less than that determined by section *twenty-four* of the Local Government Ordinance, 1939, as a sufficient number to constitute a quorum for the purpose of doing all acts and deciding all questions as by the said Ordinance provided, the Administrator may by proclamation in the *Gazette* determine the number of councillors which will be a sufficient number to do such acts and decide such questions notwithstanding the provisions of the said section herein mentioned.

**Suspension of the Provisions of section *thirty-one* of Ordinance No. 17 of 1939.**

5. Nothing in section *thirty-one* of the Local Government Ordinance, 1939, contained shall be deemed to apply to a councillor who is on active service.

**Short Title.**

6. This Ordinance may be cited as the Municipal Elections Suspension Ordinance, 1940.

**No. 22 of 1940.—Motor Vehicle Amendment.**—Principal Ordinance, No. 17 of 1931.

Section 1.—Amends section two of the Principal Ordinance.

Section 2.—Substitutes a new section three in the Principal Ordinance.

Section 3.—Amends section four of the Principal Ordinance.

Section 4.—Amends section five of the Principal Ordinance.

Section 5.—Amends section ten of the Principal Ordinance.

Section 6.—Repealed by section two of Ordinance 12 of 1942.

Section 7.—Amends section fifteen of the Principal Ordinance.

Section 8.—Amends section sixteen of the Principal Ordinance by substituting a new section sixteen.

Section 9.—Amends section eighteen of the Principal Ordinance.

Section 10.—Amends section twenty-four of the Principal Ordinance.

Section 11.—Amends section twenty-six of the Principal Ordinance.

Section 12.—Substitutes a new section twenty-seven in the Principal Ordinance.

Section 13.—Amends section twenty-eight of the Principal Ordinance.

Section 14.—Amends section thirty-three of the Principal Ordinance.

Section 15.—Substitutes a new section forty-nine in the Principal Ordinance.

Section 16.—Repealed—see Ordinance No. twelve of 1942.

Section 17.—Amends section fifty-five of the Principal Ordinance.

Section 18.—Amends section sixty-one of the Principal Ordinance.

Section 19.—Substitutes a new section sixty-two in the Principal Ordinance.

Section 20.—Amends Part I of the First Schedule to the Principal Ordinance.

Section 21.—Amends Part II of the First Schedule to the Principal Ordinance.

Section 22.—Amends Part III of the First Schedule to the Principal Ordinance.

Section 23.—Amends the Third Schedule to the Principal Ordinance.

Section 24.—Short Title.

**No. 23 of 1940.—Motor Vehicle Further Amendment.**—Principal Ordinance, No. 17 of 1931.)

Section 1.—Amends section one of the Principal Ordinance.

Section 2.—Amends section two of the Principal Ordinance.

Section 3.—Amends section three of the Principal Ordinance.

Section 4.—Amends section four of the Principal Ordinance.

Section 5.—Amends section five of the Principal Ordinance.

Section 6.—Adds new sub-section (18) to section fifty-five of the Principal Ordinance.

Section 7.—Amends section sixty-one of the Principal Ordinance.

Section 8.—Short Title.

**No. 24 of 1940.]**

[Assented to 21st December, 1940.

**MAYORS ELECTIONS.**

(Date of Operation 24th December, 1940.)

(English copy signed by Governor-General.)

**AN ORDINANCE**

**To Provide for the Compulsory Retirement of Mayors and Deputy-Mayors in certain Cases, to Provide that Councillors whose Periods of Office have been Extended shall be deemed to have been Duly Elected at an Annual Election of Councillors, and to Provide for the Validation of Irregularities or Omissions in connection with the Election of Mayors and Deputy-Mayors.**

BE IT ENACTED by the Provincial Council of Transvaal as follows:—

**Compulsory Retirement of Mayors and Deputy-Mayors.**

1. (1) In every case where a mayor or deputy-mayor, who held office as such on the 29th October, 1940, has not vacated his office as such on a date during the period 30th October, 1940, to the date of promulgation of this Ordinance, or where no election of mayor or deputy-mayor has taken place during the said period, the period of office of such mayor or deputy-mayor who has not vacated his office on a date during the period 30th October, 1940, to the date of promulgation of this Ordinance shall, notwithstanding anything to the contrary in any law contained terminate on the date of the promulgation of this Ordinance.

(2) Notwithstanding anything to the contrary in any law contained—

(a) in every case where the period of office of mayor or deputy-mayor is terminated by the provisions of sub-section (1) of this section the councillors present at the first meeting of the council concerned, held after the date of promulgation of this Ordinance, shall elect from amongst themselves a mayor or deputy-mayor, and such mayor or deputy-mayor shall hold office for the period prescribed by the first paragraph of sub-section (1) of section

sixteen and by sub-section (1) of section *seventeen*, respectively, of the Local Government Ordinance, 1939 (No. 17 of 1939);

(b) if the period of office of mayor or deputy-mayor is terminated by the provisions of sub-section (1) of this section, and a new mayor or deputy-mayor is not elected at the meeting referred to in paragraph (a) of this sub-section he shall be elected at the first ordinary meeting of the council held thereafter or at a special meeting called for the purpose;

(c) the chairman of the meeting shall, at any election referred to in paragraphs (a) and (b) of this sub-section have a deliberative vote only and in case such election cannot be determined owing to an equality in the votes recorded for two or more candidates it shall be determined by lot by the chairman.

**Councillors whose Periods of Office have been Extended to be deemed to have been Duly Elected at an Annual Election.**

2. Whenever any councillor's period of office has been extended in terms of the Municipal Elections Suspension Ordinance, 1940 (No. 21 of 1940), such councillor shall, notwithstanding anything to the contrary in any law contained, for all purposes be deemed to have been duly elected at an annual election of councillors held in terms of the Municipal Elections Ordinance, 1927 (No. 4 of 1927), for the period for which his period of office has been so extended.

**Validation of Irregularities in Connection with the Election of Mayors and Deputy-Mayors.**

3. If through any error or omission anything required by law to be done or observed in respect of the election of any mayor or deputy-mayor was omitted to be done or was not done or observed as prescribed by law, the Administrator may, in his discretion, notwithstanding anything to the contrary in any law contained, validate any such omission or anything which may have been irregularly done and declare that notwithstanding such error or omission the election of the mayor or deputy-mayor concerned shall be valid *ab initio*.

**Short Title.**

4. This Ordinance may be cited as the Mayors' Elections Ordinance, 1940.

No. 1 of 1941.]

(Asserted to 22nd June, 1940.)

WHEEL TAX No. 1 OF 1941.

(Date of Operation 2nd January, 1941.)

(Afrikaans copy signed by Governor-General.)

**AN ORDINANCE**

**To Provide for the Imposition of a Wheel Tax.**

BE IT ENACTED by the Provincial Council of Transvaal as follows:—

**Definitions.**

1. In this Ordinance and in any regulations made hereunder, unless inconsistent with the context—

“Administrator” means the officer appointed under section *sixty-eight* of the South Africa Act, 1909, acting with the consent of the Executive Committee of the Province of Transvaal;

“calendar year” means the period commencing on the first day of January in any year and ending on the next succeeding thirty-first day of December;

“goods” includes any water, sand, stone, wares, articles and merchandise of all kinds;

“hospital board” means any hospital board constituted under section *eight* of the Public Hospitals Ordinance, 1928, or any amendment thereof;

“land” means any land, with or without buildings thereon;

“local authority” means a city council, town council, village council or health committee constituted under the Local Government Ordinance, 1939, or any amendment thereof;

“owner” in relation to a vehicle includes the joint owner or part owner of such vehicle and any person who has the possession or custody of such vehicle;

“police officer” includes any commissioned officer, non-commissioned officer, constable or trooper of a police force established under any law in the Union or of any body of persons carrying out under any law the powers, duties and functions of a police force in the Union;

“vehicle” shall—

\* As amended by section *one* of Ordinance No. 3 of 1942.

(a) mean any contrivance or device running on wheels which is—

(i) constructed, adapted or fitted to be drawn by one or more animals or is propelled or drawn by steam or mechanical power, and

(ii) used or designed to be used for the purpose of conveying or transporting persons, goods or merchandise,

(b) include a bicycle, tricycle, traction engine, threshing machine, threshing engine and a boring machine;

Provided that a water-cart, any contrivance or device fitted with pneumatic tyres, any contrivance or device used exclusively upon stationary rails or tracks and any other contrivance or device propelled, drawn or moved by human power other than a bicycle or tricycle shall for the purposes of this Ordinance be deemed not to be vehicles.

#### Imposition of a Wheel Tax.

2. Except in respect of vehicles falling within the exemptions granted by section *four* there shall be imposed, levied and paid within the periods prescribed by section *three*, for the benefit of the Provincial Revenue Fund, in respect of all vehicles in the Transvaal, a tax at the following rates:—

(a) in respect of any vehicle other than a bicycle or a tricycle, an amount of two shillings and sixpence per wheel;

(b) in respect of every bicycle or tricycle, an amount of two shillings;

Provided that in the case of vehicles *bona fide* acquired after the thirtieth day of June in any year only one-half of the aforementioned amounts shall be payable.

#### Periods within which Wheel Tax must be Paid by Owners of Vehicles.

3. (1) Every person who is the owner of a vehicle on the date of the coming into operation of this Ordinance shall be liable for the tax prescribed by section *two* and shall pay such tax within thirty-one days of the date of promulgation of this Ordinance.

(2) Every person who is the owner of a vehicle on the first day of January of any year shall be liable, from such first day of January, for the full amount of the tax prescribed by section *two*, and shall pay such amount not later than the next succeeding thirty-first day of January.

(3) Every person who becomes the owner of a vehicle during any calendar year shall be liable, from the date on which he became the owner, for the tax prescribed by section *two* and shall pay such tax within seven days of such date; Provided that this sub-section shall not apply in a case where such amount has already been paid by any other person.

(4) The tax shall be paid by the owner to the Receiver of Revenue of the district in which he is resident or at such other place as the Commissioner for Inland Revenue may by public notice direct.

#### Exemptions from Payment of Wheel Tax.

4. No tax shall be payable in respect of—

(a) any vehicle which is the property of—

(i) the Union Government,

(ii) the Provincial Administration,

(iii) a local authority,

(iv) a hospital board,

(v) a university,

(vi) an institution in the Province declared under any law to be included in higher education,

(vii) the National Parks Board of Trustees,

(viii) the Warmbaths Board of Trustees;

(b) any vehicle in respect of which a licence fee has been imposed by any law or by-law relating to the licensing of motor or other vehicles;

(c) any vehicle, kept and stored in any shed, store, building or garage by any manufacturer or dealer in vehicles for the *bona fide* purpose of sale or exhibition; Provided that such vehicle is not used;

(d) any vehicle used *bona fide* and exclusively and any bicycle used generally for the conveyance of children to and from school;

(e) any vehicle which is certified by the Receiver of Revenue to be of home-made construction; Provided that the weight of such vehicle does not exceed 200 lb.;

(f) deleted by section *two* Ordinance 3 of 1942;

(g) any vehicle propelled by mechanical or other power and especially designed and constructed (and not merely adapted) for the use of a person suffering from some physical defect or disability and used solely by or for such person;

(h) any vehicle specially designed and constructed for use as an ambulance; Provided that such vehicle is exclusively used as an ambulance;

(i) any vehicle which, being the property of any person resident in any of the adjoining Provinces or territories is brought into this Province for a purely temporary purpose; Provided that this exemption shall not be available for longer than thirty days from and including the day of arrival of such vehicle in this Province; Provided further that this exemption shall not apply to any vehicle plying for hire in this Province or used for transporting goods to or from this Province;

(j) any vehicle used exclusively for purposes of a public nature and declared by regulation to be exempt from payment of the tax.

#### **Penalties for Failure to Pay Wheel Tax.**

5. (1) Any person who fails to pay the prescribed tax in respect of any vehicle of which he is the owner, within the prescribed time, shall be guilty of an offence and liable, on conviction, to the penalties prescribed by section *seventeen*.

(2) For the purposes of this section—

“prescribed tax” means the amount which should, in accordance with the provisions of sub-section (1) or (2) or (3) of section *three* (whichever sub-section may be applicable), have been paid;

“prescribed time” means the period within which the tax should, in accordance with the provisions of sub-section (1) or (2) or (3) of section *three* (whichever sub-section may be applicable), have been paid.

#### **Penalty for Evading Payment of Wheel Tax.**

6. Any person who is liable under this Ordinance for any amount in respect of wheel tax and who, for the purpose of evading payment of such amount, removes any part of a vehicle with the object of rendering such vehicle incapable of being used shall be guilty of an offence and liable, on conviction to the penalties prescribed by section *seventeen*. Such person shall also be subject to the provisions of sections *two* and *five*.

#### **Metal Badges to be Affixed and Kept Affixed to Vehicles.**

7. (1) Upon payment of the tax there shall be issued to the owner of the vehicle in question a wheel tax receipt as well as a numbered metal badge in such form as may be prescribed by the Administrator by regulation.

(2) Every person to whom a metal badge has been issued in terms of sub-section (1) of this section or to whom a duplicate metal badge has been issued in terms of section *eight* shall affix it to the vehicle in respect of which it was issued or cause it to be so affixed and shall keep it so affixed up to and including the thirty-first day of December of the year in respect of which it was issued, in such conspicuous position upon such vehicle and in such manner as may be prescribed by the Administrator by regulation.

#### **Issue of Duplicate Metal Badges.**

8. Whenever it appears to the satisfaction of a receiver of revenue that a metal badge issued to any owner has been lost, destroyed or accidentally defaced, or that the figures and particulars thereon have become illegible for reasons beyond the control of the person to whom such metal badge was issued he shall on payment of a fee of two shillings, issue a duplicate metal badge to such person.

#### **Owners, Lessees and Occupiers of Land to Furnish Returns.**

9. (1) Any owner, lessee or occupier of any land situated outside the area of jurisdiction of a local authority who, upon being supplied with the prescribed form by an inspector of licences, fails or refuses to furnish forthwith to such inspector of licences a written return of all vehicles owned by the persons resident on such land, irrespective of whether such vehicles are subject to the tax or not, or who wilfully makes any false or incorrect entry in such return or who wilfully causes a false or incorrect entry to be made therein shall be guilty of an offence and liable, on conviction, to the penalties prescribed by section *seventeen*.

(2) The return to be furnished under sub-section (1) of this section shall be in such form as the Administrator may from time to time prescribe by regulation.

#### **Endorsement of Wheel Tax Receipt in case of Disposal of Vehicle.**

10. (1) Any person who disposes of any vehicle by way of sale, barter or gift, or in any other manner, shall hand over his last wheel tax receipt to the new owner of such vehicle.

(2) Any person who during any calendar year becomes the owner of any vehicle in respect of which the tax prescribed by section *two* has already been paid for that year, shall within twenty-one days of the date on which he becomes the owner of such vehicle notify the receiver of revenue to whom the



tax was paid of such change of ownership and shall produce the relative wheel tax receipt to such receiver of revenue for the purpose of having endorsed thereon his name and address and the date on which he became the owner.

**Metal Badges not to be Lent or Disposed of or Affixed to Wrong Vehicles.**

11. Any person who lends any metal badge issued to him under sub-section (1) of section *seven* or section *eight* to any other person or who disposes of such badge in any manner whatever or who affixes such badge or causes it to be affixed to any vehicle other than the vehicle in respect of which such badge was issued, shall be guilty of an offence and liable, on conviction, to the penalties prescribed by section *seventeen*.

**Appointment of Inspectors of Licences.**

12. For securing the payment and facilitating the collection of the tax the Administrator may from time to time appoint as many persons as he may deem necessary, as inspectors of licences.

**Certain Officials deemed to be Inspectors of Licences.**

13. The Chief Provincial Inspector, the Senior Provincial Inspector and all Provincial Inspectors and Outdoor Officers in the employ of the Provincial Administration of Transvaal shall be deemed to hold appointments as inspectors of licences.

**Production of Wheel Tax Receipts.**

14. (1) Any police officer, receiver of revenue or inspector of licences shall have the right to demand from any owner of a vehicle the production of his wheel tax receipt with the object of ascertaining whether the tax in respect of such vehicle has been paid.

(2) Any owner who fails or refuses to produce such receipt within seven days of such demand shall be guilty of an offence and liable, on conviction, to a fine not exceeding two pounds and in default of payment to imprisonment, with or without hard labour, for a period not exceeding fourteen days.

**Obstruction of Police and Inspectors of Licences.**

15. Any person who resists or hinders or obstructs any police officer or inspector of licences in the execution of any of the powers or duties conferred upon him by this Ordinance or by any regulation hereunder, shall be guilty of an offence and liable on conviction, to a fine not exceeding twenty pounds and in default of payment to imprisonment, with or without hard labour for a period not exceeding three months.

**Presumptions.**

16. Whenever a metal badge is not affixed to any vehicle as prescribed by sub-section (2) of section *seven* it shall, in any proceedings against any person under section *five*, be deemed that the tax in respect of the ownership of such vehicle for the year or years in question has not been paid, unless the contrary is proved.

**General Penalties.**

17. Any person who contravenes or fails to comply with any provision of this Ordinance shall be guilty of an offence and shall, if no penalty is expressly provided in this Ordinance for such contravention or failure, be liable, on conviction, to a fine not exceeding ten pounds and in default of payment to imprisonment, with or without hard labour for a period not exceeding three months.

**Power to make Regulations.**

18. The Administrator may from time to time make regulations—

- (1) (a) prescribing the duties of inspectors of licences;
- (b) fixing the security to be given by inspectors of licences appointed under section *twelve* for the due and faithful discharge of their duties;
- (c) determining the remuneration to be paid to inspectors of licences appointed under section *twelve*;
- (d) determining the right of entry of inspectors of licences upon premises and their powers when performing their duties in connection with the inspection of vehicles, metal badges and wheel tax receipts;
- (e) prescribing the manner of accounting for all moneys received by inspectors of licences;
- (2) prescribing the form of the metal badge and the place where and the manner in which it must be affixed to the vehicle;
- (3) declaring any class of vehicles, used exclusively for purposes of a public nature, to be exempt from payment of the tax;
- (4) prescribing the form of the returns which must be furnished under section *nine*; and

(5) generally for the better carrying out of the objects and purposes of this Ordinance; and such regulations may prescribe penalties for any contravention thereof or for any failure to comply with any provision thereof not exceeding a fine of five pounds and in default of payment imprisonment with or without hard labour for a period not exceeding one month.

**Application of Fines.**

19. Every fine imposed for a contravention of this Ordinance or of the regulations hereunder shall be paid into the Provincial Revenue Fund.

**Recovery of Wheel Tax.**

20. Any amount due under section *two* shall be debt to the Provincial Administration of the Transvaal and may be sued for and recovered in any Court of competent jurisdiction by the Commissioner for Inland Revenue, suing on behalf of the Provincial Administration.

**Short Title.**

21. This Ordinance may be cited as the Wheel Tax Ordinance, 1940.

**No. 2 of 1941.—Additional Appropriation (1940-1941).**

**No. 3 of 1941.—Appropriation (Part 1941-1942).**

SCHOOL BOARDS ELECTIONS.

No. 4 of 1941.]

[Assented to 20th March, 1941.]

(Date of Operation 9th April, 1941.)

(Afrikaans copy signed by Governor-General.)

AN ORDINANCE

To Provide for the Postponement of School Board Elections and for the Extension of the Periods of Office of Members of School Boards.

BE IT ENACTED by the Provincial Council of Transvaal as follows:—

**Postponement of School Board Elections and Extension of Periods of Office of Members of School Boards.**

1. Notwithstanding anything to the contrary in any law contained—

(1) the school board elections which were postponed by sub-section (1) of section *one* of the School Boards Elections Ordinance, 1941 (Ordinance No. 4 of 1941), are hereby postponed for a further period of twelve months;

(2) the period of office of members of school boards who hold office as such on the thirtieth day of June, 1942, is hereby extended to the thirtieth day of June, 1943; provided that if any member becomes disqualified as set out in section *forty* of the Education Act, 1907 (Act No. 25 of 1907—Transvaal) or dies or resigns his office, his period of office shall terminate on the date on which he becomes disqualified as aforesaid or on which he dies or resigns his office.

**Short Title.**

2. This Ordinance may be cited as the School Boards Elections Postponement Ordinance, 1941.

**No. 5 of 1941.—Licensing of Bookmakers and Taxation Amendment.—Principal Ordinance, No. 26 of 1925.)**

*Section 1.—Amends section six of the Principal Ordinance.*

*Section 2.—Amends section seven of the Principal Ordinance.*

*Section 3.—Amends section eight of the Principal Ordinance.*

*Section 4.—Amends section nine of the Principal Ordinance.*

*Section 5.—Short Title.*

**No. 6 of 1941.—Dog Racing Amendment.**

*Section 1.—Amends section eight of the Principal Ordinance, No. 16 of 1940.*

*Section 2.—Short Title.*

**No. 7 of 1941.—Horse Racing and Betting Amendment.**

*Section 1.—Amends section five of the Principal Ordinance No. 9 of 1927.*

*Section 2.—Short Title.*

**No. 8 of 1941.—Municipal Elections Amendment.**

*Section 1.—Amends section six of the Principal Ordinance No. 4 of 1927.*

*Section 2.—Short Title.*

**No. 9 of 1941.—Transvaal Hospital Nurses' Pensions Amendment.—Principal Ordinance, No. 13 of 1919.)**

*Section 1.—Amends section three of the Principal Ordinance.*

*Section 2.—Deletes sub-sections (5) and (6) of section four of the Principal Ordinance.*

*Section 3.—Adds after section four, a new section four bis dealing with "contributions by persons contributing to the fund on the 1st July, 1941".*

**Section 4.**—Adds after the above, a new section four ter dealing with “contributions by nurses and female officers who commence to contribute to the fund subsequent to the 1st July, 1941”.

**Section 5.**—Substitutes a new section six to the Principal Ordinance.

**Section 6.**—Provides for the coming into operation on the 1st July, 1941, of sections two and five of this Ordinance.

**Section 7.**—Short Title.

**No. 10 of 1941.**—Unauthorized Expenditure (1939-1940).

**No. 11 of 1941.**—Game Amendment.—Principal Ordinance, No. 11 of 1913.

**Section 1.**—Amends section one of the Principal Ordinance.

**Section 2.**—Amends section three of the Principal Ordinance.

**Section 3.**—Adds sub-section (3) and (4) to section five of the Principal Ordinance.

**Section 4.**—Amends the Afrikaans version of section six of the Principal Ordinance.

**Section 5.**—Amends section seven of the Principal Ordinance.

**Section 6.**—Amends section ten of the Principal Ordinance.

**Section 7.**—Adds after section ten a new section ten bis providing for powers of “search for concealed game”.

**Section 8.**—Short Title.

**No. 12 of 1941.**—Local Government Amendment.—Principal Ordinance, No. 17 of 1939.)

**Section 1.**—Amends section forty of the Principal Ordinance.

**Section 2.**—Amends section forty-one of the Principal Ordinance.

**Section 3.**—Amends section forty-two of the Principal Ordinance.

**Section 4.**—Amends section forty-nine of the Principal Ordinance.

**Section 5.**—Amends section sixty-two of the Principal Ordinance.

**Section 6.**—Amends section sixty-three of the Principal Ordinance.

**Section 7.**—Amends section sixty-nine of the Principal Ordinance.

**Section 8.**—Amends section seventy-nine of the Principal Ordinance.

**Section 9.**—Amends section eighty of the Principal Ordinance.

**Section 10.**—Amends section eighty-three of the Principal Ordinance.

**Section 11.**—Amends section ninety of the Principal Ordinance.

**Section 12.**—Amends section ninety-one of the Principal Ordinance.

**Section 13.**—Amends section ninety-six of the Principal Ordinance.

**Section 14.**—Amends section one hundred and fourteen of the Principal Ordinance.

**Section 15.**—Amends section one hundred and forty-two of the Principal Ordinance.

**Section 16.**—Amends section one hundred and fifty-one of the Principal Ordinance.

**Section 17.**—Short Title.

**No. 13 of 1941.**—Appropriation (1941-1942).

#### SCHOOL BOARD ELECTIONS POSTPONEMENT.

**No. 14 of 1941.]**

[Assented to 30th July, 1941.]

(Date of Operation 20th August, 1941.)

(Afrikaans copy signed by Governor-General.)

#### AN ORDINANCE

**To Provide for the Suspension of School Board Elections and for the Extension of the Periods of Office of Members of School Boards.**

**BE IT ENACTED** by the Provincial Council of Transvaal as follows:—

**Suspension of School Board Elections and Extension of Periods of Office of Members of School Boards.**

1. Notwithstanding anything to the contrary in any law contained—

(1) the school board elections which were due to be held in 1940 and which were, in terms of section one of the School Boards Elections Ordinance, 1940 (Ordinance No. 5 of 1940), postponed by the Administrator by Proclamation No. 112, published in the *Provincial Gazette of the Transvaal* on the 26th June, 1940, for a period of twelve months, are hereby postponed for a further period of twelve months;

(2) the period of office of members of school boards who hold office as such on the thirtieth day of June, 1941, is hereby extended to the thirtieth day of June, 1942; provided that if any member becomes disqualified as set out in section forty of the Education Act, 1907 (Act No. 25 of 1907—Transvaal) or dies or resigns his office, his period of office shall terminate on the date on which he becomes disqualified as aforesaid or on which he dies or resigns his office.

**Short Title.**

2. This Ordinance may be cited as the School Boards Elections Ordinance, 1941.

**No. 15 of 1941.—Local Authorities Rating Amendment.***Section 1.—Amends section nineteen of the Principal Ordinance No. 20 of 1933.**Section 2.—Short Title.*

## MUNICIPAL ELECTIONS SUSPENSION OF 1941.

No. 16 of 1941.]

[Assented to 30th July, 1941.]

**AN ORDINANCE****To Suspend the Provisions of the Municipal Elections Ordinance, 1927, in certain respects.***(Date of Operation 20th August, 1941.)**(English copy signed by Governor-General.)*

BE IT ENACTED by the Provincial Council of Transvaal as follows:—

**Extension of Period of Office of Town Councillors normally Elected in 1937, 1938 and 1939.**

1. Notwithstanding anything in the Municipal Elections Ordinance, 1927 (Ordinance No. 4 of 1927), or any other law contained, the Town Councillors who were elected under the provisions of Chapter V of the said Ordinance at the annual elections of Councillors in the years 1937, 1938 and 1939, shall respectively, continue in office until the day of the sixth annual election after the day of their election, and the Councillor elected to fill a casual vacancy under the provisions of Chapter V of the said Ordinance, whether such election took place on the annual election day or not shall hold office for the remainder of the term for which the Councillor who has vacated office and whom he succeeds would have remained in office.

**Election of Mayors and Deputy-Mayors to be held Annually notwithstanding the Provisions of section one.**

2. Notwithstanding any suspension of any annual election due to the provisions of section one of this Ordinance it shall be deemed that Councillors whose period of office has been extended beyond the period provided for in the said Municipal Elections Ordinance, 1927, have been duly re-elected and that the relative annual election was duly held and the provisions of the Local Government Ordinance, 1939 (Ordinance No. 17 of 1939), relating to the election of Mayors and Deputy Mayors shall apply as if such annual election did in fact take place.

Section nine of Ordinance No. 11 of 1942 provides.

**Period of Office of Town Councillors Elected on the last Wednesday of October, 1938, or 1939, as a Result of the Creation of New Wards.**

9. Notwithstanding anything to the contrary in the Municipal Elections Suspension Ordinance, 1941 (Ordinance No. 16 of 1941), contained, any town councillor who was elected on the last Wednesday of October, 1938, and any town councillor who was elected on the last Wednesday of October, 1939, as a result of the creation of a new ward, for a period terminating on the day of the first annual election after the day of his election, shall hold office for a period terminating on the day of the fourth annual election after the day of his election and no longer, and any town councillor elected as aforesaid for a period terminating on the day of the second annual election after the day of his election shall hold office for a period terminating on the day of the fifth annual election after the day of his election and no longer.

**Short Title.**

3. This Ordinance may be cited as the Municipal Elections Suspension Ordinance, 1941.

**No. 17 of 1941.—Public Hospitals Amendment.—Principal Ordinance, No. 18 of 1928.)***Section 1.—Amends section nine of the Principal Ordinance.**Section 2.—Amends section fifty of the Principal Ordinance.**Sections 3, 4, 5, 6, 7, 8, 9.—Repealed by the Public Hospitals Amendment Ordinance, 1943.***Section 10.—Short Title.****No. 18 of 1941.—Motor Vehicle Amendment.—Principal Ordinance, No. 17 of 1931.***Section 1.—Amends section two of the Principal Ordinance.**Section 2.—Amends section eighteen of the Principal Ordinance.**Section 3.—Adds, after section eighteen, a new section eighteen bis providing for the "issue of temporary drivers' licences to bona fide visitors to the Transvaal".*

\* As amended by section one of Ordinance No. 4 of 1942.

Section 4.—Amends section twenty-two of the Principal Ordinance.

Section 5.—Amends section twenty-five of the Principal Ordinance.

Section 6.—Adds, after section twenty-five, a new section twenty-five bis providing for the “displaying of distinctive marks and number plates and international distinguishing marks on motor vehicles and trailers licensed elsewhere than in the Transvaal”.

Section 7.—Adds, after section twenty-five bis, a new section twenty-five ter, providing for the “issue of short term licences to persons not resident in the Transvaal”.

Section 8.—Amends section fifty-five of the Principal Ordinance.

Section 9.—Short Title.

**No. 19 of 1941.—Financial Adjustments.—For the disposal of £100,000 surplus Revenue.**

**No. 20 of 1941.—Townships and Townplanning Amendment.—Principal Ordinance, No. 11 of 1931.)**

Section 1.—Amends section nineteen of the Principal Ordinance.

Section 2.—Amends section twenty of the Principal Ordinance.

Section 3.—Adds, after section twenty, a new section twenty bis, enabling the Administrator to impose conditions in the case of extension of boundaries of townships.

Section 4.—Amends section twenty-four of the Principal Ordinance.

Section 5.—Amends section twenty-six of the Principal Ordinance.

Section 6.—Amends section twenty-seven of the Principal Ordinance.

Section 7.—Substitutes a new section twenty-nine to the Principal Ordinance so as to enable the Administrator to alter, suspend or remove conditions of title.

Section 8.—Amends section thirty-three of the Principal Ordinance.

Section 9.—Amends section thirty-four of the Principal Ordinance.

Section 10.—Amends section thirty-five of the Principal Ordinance.

Section 11.—Amends section thirty-nine of the Principal Ordinance.

Section 12.—Amends section forty-two of the Principal Ordinance.

Section 13.—Amends section forty-three of the Principal Ordinance.

Section 14.—Amends section forty-four of the Principal Ordinance.

Section 15.—Amends section forty-five of the Principal Ordinance.

Section 16.—Amends section forty-eight of the Principal Ordinance.

Section 17.—Amends section forty-nine of the Principal Ordinance.

Section 18.—Adds, after section fifty, a new section fifty bis, conferring “power to withdraw or modify provisions of schemes after an award of compensation has been made”.

Section 19.—Amends section fifty-one of the Principal Ordinance.

Section 20.—Amends section fifty-two of the Principal Ordinance.

Section 21.—Amends section fifty-six of the Principal Ordinance by the substitution of a new section fifty-six.

Section 22.—Adds after section fifty-six, a new section fifty-six bis providing for “offences” in certain cases.

Section 23.—Adds, after section fifty-six bis a new section fifty-six ter, maintaining the rights of local authorities to institute civil proceedings.

Section 24.—Substitutes a new section fifty-seven to the Principal Ordinance.

Section 25.—Amends section fifty-eight of the Principal Ordinance.

Section 26.—Amends section fifty-nine of the Principal Ordinance.

Section 27.—Amends section sixty-one of the Principal Ordinance.

Section 28.—Repeals section 8 of Ordinance 10 of 1938.

Section 29.—Provides for the date of the coming into operation of sections seventeen and twenty (1) of this Ordinance.

Section 30.—Short Title.

**No. 21 of 1941.—Shop Hours Amendment.—Principal Ordinance, No. 5 of 1923.**

Section 1.—Amends section three of the Principal Ordinance.

Section 2.—Amends section four of the Principal Ordinance.

Section 3.—Amends section five of the Principal Ordinance.

Section 4.—Repeals sub-section (3) of section six of the Principal Ordinance.

Section 5.—Amends section twelve of the Principal Ordinance.

Section 6.—Amends section thirteen of the Principal Ordinance by the substitution of a new section thirteen.

Section 7.—Adds, after section thirteen, a new section thirteen bis, providing for “bona fide mistake to be no defence”.

Section 8.—Adds, after section thirteen bis, a new section thirteen ter, providing for certain presumptions in favour of the Crown.

Section 9.—Short Title.

**No. 1 of 1942.—Additional Appropriation (1941-1942).**

**No. 2 of 1942.—Appropriation (Part 1942-1943).**

**No. 3 of 1942.—Wheel Tax Amendment.**

Section 1.—Amends section one of Ordinance No. 1 of 1941.

Section 2.—Amends section four of Ordinance No. 1 of 1941.

Section 3.—Short Title.

**No. 4 of 1942.—Municipal Elections Amendment.—Principal Ordinance, No. 4 of 1927.)**

Section 1.—Amends section twelve (4) (bis) of the Principal Ordinance.

Section 2.—Amends section thirty-one of the Principal Ordinance.

Section 3.—Short Title.

**No. 5 of 1942.—Johannesburg Municipality Borrowing Powers Amendment.**

Section 1.—Amends section forty-five of the (Principal Ordinance No. 3 of 1903).

Section 2.—Short Title.

**No. 6 of 1942.—Horse Racing and Betting Amendment.**

Section 1.—Adds a new section twenty-three bis dealing with "Rewards to Informers". (Printed after section twenty-three in the Principal Ordinance, No. 9 of 1927.)

Section 2.—Short Title.

**No. 7 of 1942.—Dog Racing Amendment.—Principal Ordinance, No. 16 of 1940.**

Section 1.—Adds a new section four (bis) dealing with the "Control of dissemination of information as to betting". (Printed after section four in the Principal Ordinance.)

Section 2.—Adds a new section twenty (bis) providing for "Rewards to Informers". (Printed after section twenty in the Principal Ordinance.)

Section 3.—Short Title.

**No. 8 of 1942.—Unauthorized Expenditure (1940-1941).**

**No. 9 of 1942.—Public Hospitals Amendment.—Principal Ordinance, No. 18 of 1928.)**

Section 1.—Amends section two of the Principal Ordinance.

Section 2.—Amends section eight of the Principal Ordinance.

Section 3.—Substitutes a new section eleven to the Principal Ordinance.

Section 4.—Adds a new section eleven bis providing for "the dissolution of boards constituted for a hospital used exclusively as a chronic sick home for children".

Section 5.—Adds a new section eleven ter providing for "commissions of inquiry".

(The above two sections have been included after section eleven in the Principal Ordinance.)

Section 6.—Amends section thirteen of the Principal Ordinance.

Section 7.—Amends section forty-four of the Principal Ordinance.

Section 8.—Amends section forty-six of the Principal Ordinance.

Sections 9 and 10.—Adding two new sections to the Principal Ordinance have since been repealed by the Public Hospitals Amendment Ordinance, 1943.

Section 11.—Short Title.

**No. 10 of 1942.—Municipal Elections Suspension Amendment.**

Section 1.—Amends section one of the Principal Ordinance, No. 16 of 1941.

Section 2.—Short Title.

**No. 11 of 1942.—Local Government Amendment.—Principal Ordinance, No. 17 of 1939.)**

Section 1.—Amends section fifty-nine of the Principal Ordinance.

Section 2.—Amends section sixty-two of the Principal Ordinance.

Section 3.—Substitutes a new section sixty-seven to the Principal Ordinance.

Section 4.—Amends section sixty-eight of the Principal Ordinance.

Section 5.—Amends section seventy-nine of the Principal Ordinance.

Section 6.—Amends section eighty of the Principal Ordinance.

Section 7.—Amends section ninety-one of the Principal Ordinance.

Section 8.—Amends section ninety-five of the Principal Ordinance.

Section 9.—Makes provision for the period of office of Town Councillors elected on the last Wednesday of October, 1938, or 1939, as a result of the creation of new wards.

Section 10.—Short Title.

**No. 12 of 1942.—Motor Vehicle Amendment.—Principal Ordinance, No. 17 of 1931.**

Section 1.—Amends section five of the Principal Ordinance.

Section 2.—Adds a new section thirteen bis dealing with the "examination of second-hand motor vehicles and trailers when acquired by owners".

Section 3.—Adds a new section thirteen ter enabling that motor vehicles and trailers may be examined as to their roadworthiness or otherwise.

(These two sections are contained, after section thirteen, in the Principal Ordinance.)

Section 4.—Amends section twenty-three of the Principal Ordinance.

Section 5.—Amends section thirty of the Principal Ordinance.

Section 6.—Adds a new section thirty-five bis providing for "penalties in the case of certain serious offences".

Section 7.—Amends section fifty-three of the Principal Ordinance.

Section 8.—Amends section fifty-five of the Principal Ordinance.

Section 9.—Short Title.

**No. 13 of 1942.—Appropriation (1942-1943).**

**No. 14 of 1942.—Financial Adjustments.—***For the disposal of £400,000 surplus Revenue.*

**No. 1 of 1943.—Local Government Superannuation Amendment.**

*Section 1.—Defines Principal Ordinance as No. 16 of 1930.*

*Section 2.—Amends section twelve of the Principal Ordinance.*

*Section 3.—Amends section fourteen of the Principal Ordinance.*

*Section 4.—Amends section eighteen of the Principal Ordinance.*

*Section 5.—Amends section twenty-two of the Principal Ordinance.*

*Section 6.—Amends section twenty-five of the Principal Ordinance.*

*Section 7.—Amends section twenty-seven of the Principal Ordinance.*

*Section 8.—Amends section thirty-eight of the Principal Ordinance.*

*Section 9.—Amends section twenty-five of Ordinance No. 10 of 1937.*

*Section 10.—Short Title.*

#### SCHOOL BOARD ELECTIONS POSTPONEMENT.

**No. 2 of 1943.]**

[Assented to 13th February 1943.

*(Afrikaans text signed by officer administering the Government.)*

#### AN ORDINANCE

**To Provide for the Postponement of School Board Elections and for the Extension of the Periods of Office of Members of School Boards.**

BE IT ENACTED by the Provincial Council of Transvaal as follows:—

##### Definition.

1. In this Ordinance "Administrator" means the Administrator of the Province of Transvaal acting on the advice and with the consent of the Executive Committee of the said Province.

**Postponement of School Board Elections and Extension of Periods of Office of Members of School Boards.**

2. Notwithstanding anything to the contrary in any law contained—

(a) the school board elections which were postponed by paragraph (1) of section one of the School Boards Elections Postponement Ordinance, 1941 (Ordinance No. 14 of 1941), are hereby further postponed for a period to be determined by the Administrator by proclamation in the *Provincial Gazette*; provided that such period shall not exceed twelve months;

(b) the period of office of members of school boards who hold office as such on the thirtieth day of June, 1943, is hereby extended for the period determined by the Administrator in terms of paragraph (a) of this section; provided that if any member becomes disqualified as set out in section forty of the Education Act, 1907 (Act No. 25 of 1907—Transvaal), or dies or resigns his office, his period of office shall terminate on the date on which he becomes disqualified as aforesaid or on which he dies or resigns his office.

##### Short Title.

3. This Ordinance may be cited as the School Boards Elections Postponement Ordinance, 1943.

#### MOTOR VEHICLE LICENCE FEES REDUCTION.

**No. 3 of 1943.]**

[Assented to 13th February 1943.

*(English text signed by Officer Administering the Government.)*

#### AN ORDINANCE

**To Provide for the Reduction of Licence Fees in respect of Motor Cars and Motor Cycles and the Refund of Licence Fees in respect of Motor Vehicles and Trailers in certain circumstances and to Provide for the Amendment of the Motor Vehicle Ordinance, 1931.**

BE IT ENACTED by the Provincial Council of Transvaal as follows:—

##### Definitions.

1. In this Ordinance the expression "principal ordinance" means the Motor Vehicle Ordinance, 1931, as amended from time to time, and the words and expressions in this Ordinance shall have the meaning which has been assigned to them by the said principal ordinance.

**Reduction of Licence Fees in respect of Motor Cars and Motor Cycles.**

2. (1) Notwithstanding anything to the contrary in the principal ordinance contained any fee payable for a licence in terms of sub-section (2) of section four of that Ordinance—

(a) for the period 1st January, 1943, to the 31st December, 1943, inclusive;

or

(b) for the period commencing on the date on which the liability for such licence fee arises up to and including the 31st day of December, 1943, in the event of such liability arising after the 1st day of January, 1943, in respect of the ownership of a motor car or motor cycle shall be reduced by twenty per cent.

(2) The Administrator may by proclamation in the *Provincial Gazette* apply the provisions of sub-section (1) of this section *mutatis mutandis* in respect of 1944 or any subsequent year; provided that he may in any such proclamation vary the reduction referred to in that sub-section as he may think fit.

(3) Sub-section (1) of this section shall be deemed to have come into operation on the first day of January, 1943.

#### Refund of Portion of Licence Fees.

3. (1) Whenever it becomes impossible for owners of motor vehicles or trailers or any type or class of motor vehicles or trailers to use the same owing to inability to obtain petrol, tyres or any other requirement essential for the running thereof, the Administrator may in his discretion authorise refunds on such terms and conditions as he may determine to the owners of the motor vehicles or trailers concerned of such portion of the licence fees paid to the Administrator and not refunded to a local authority as he may deem fit.

(2) All refunds authorised under sub-section (1) shall be met out of the Provincial Revenue Fund.

4. Amends Section *four* of the Principal Ordinance.

5. Amends section *five* of the Principal Ordinance.

6. Amends the first Schedule of the Principal Ordinance.

#### Short Title.

7. This Ordinance may be cited as the Motor Vehicle Licence Fees Reduction Ordinance, 1943.

No. 4 of 1943.—Pensions (Supplementary).—*To provide for the payment of a Gratuity to Adriaan Henry Nel.*

No. 5 of 1943.—Financial Adjustments.

No. 6 of 1943.—Additional Appropriation.

No. 7 of 1943.—Apropriation (Part 1943-1944).

No. 8 of 1943.—Licensing and Control of Dogs Amendment.—*Principal Ordinance No. 18 of 1933.*

Section 1.—*Amends section three of the Principal Ordinance.*

Section 2.—*Amends section six of the Principal Ordinance.*

Section 3.—*Substitutes a new section seven in the Principal Ordinance.*

Section 4.—*Amends section eight of the Principal Ordinance.*

Section 5.—*Adds after section eight of the Principal Ordinance, a new section, eight bis, conferring certain powers on authorised officers.*

Section 6.—*Amends section ten of the Principal Ordinance.*

Section 7.—*Adds after section ten of the Principal Ordinance, a new section, ten bis, creating certain presumptions.*

Section 8.—*Short Title.*

### MUNICIPAL ELECTIONS AMENDMENT.

No. 9 of 1943.]

[Assented to 30th March 1943.]

(*English text signed by Officer Administering the Government.*)

#### AN ORDINANCE

To Suspend certain of the Provisions of the Municipal Elections Ordinance, 1927, as amended, and to amend that Ordinance in certain respects.

BE IT ENACTED by the Provincial Council of Transvaal as follows:—

#### Definitions.

1. In this Ordinance the expression "principal ordinance" means the Municipal Elections Ordinance, 1927, as amended from time to time, and the words and expressions in this ordinance shall have the meaning which has been assigned to them by the said principal ordinance.

Suspension of Provisions of section twelve (4) bis of Ordinance No. 4 of 1927, inserted by section two of Ordinance No. 9 of 1937, and amended by section one of Ordinance No. 4 of 1942.

2. The provisions of sub-section (4) bis of section *twelve* of the principal ordinance are hereby suspended for as long as the Union remains at war in the present world war.

Amendment of section fifteen of Ordinance No. 4 of 1927, as amended by section three of Ordinance No. 9 of 1937.

3. (1) Section *fifteen* of the principal ordinance is hereby amended by the



substitution in paragraph (b) of sub-section (3) for the words " April and May " of the words " March and April ".

(2) Where the Administrator has fixed the months of April and May of any year as the months in which a town council shall frame its voters' roll in accordance with the provisions of the principal ordinance it shall be deemed that he has fixed the months of March and April of that year as the months in which such voters' roll shall be framed.

(3) This section shall be deemed to have come into operation on the first day of March, 1943.

#### **Suspension of Compilation of Voters' Rolls by Town Councils.**

4. (1) Notwithstanding anything to the contrary contained in paragraph (a) of sub-section (1) and paragraph (b) of sub-section (3) of section *fifteen* of the principal ordinance—

(a) it shall be lawful for any town council which must in the months of March and April, 1943, cause a list to be made of all persons qualified to be enrolled on the voters' roll under the provisions of the principal ordinance to postpone the making of such list up to the 29th February, 1944, and, if the Administrator consents, to further postpone the making of such list for periods of twelve months not extending beyond the 28th February, 1946;

(b) it shall be lawful for any town council which must in the months of March and April, 1944, cause the aforesaid list to be made, to postpone, if the Administrator consents, the making of such list up to the 28th February, 1945, and thereafter for a further period not extending beyond the 28th February, 1946;

(c) it shall be lawful for any town council which must in the months of March and April, 1945, cause the aforesaid list to be made, to postpone the making of such list, if the Administrator consents, up to the 28th February, 1946.

(2) Whenever a town council postpones the making of a list in terms of sub-section (1) of this section it shall during the months of March and April immediately following the date on which the period or periods for which the making of the list was postponed, expired, cause the list to be made and thereafter once every three years in the months of March and April.

(3) This section shall be deemed to have come into operation on the first day of March, 1943.

#### **Short Title.**

5. This Ordinance may be cited as the Municipal Elections Amendment Ordinance, 1943.

#### **No. 10 of 1943.—Townships and Townplanning Amendment.—Principal Ordinance, No. 11 of 1931.)**

*Section 1.—Adds, after section eight of the Principal Ordinance, a new section, eight bis, enabling the Townships Board to appoint Committees.*

*Section 2.—Adds, after section thirty-eight of the Principal Ordinance, a new section, thirty-eight bis, dealing with the discretionary powers of local authorities, and appeals.*

*Section 3.—Repeals section forty-three of the Principal Ordinance and substitutes a new section.*

*Section 4.—Adds a new sub-section (3) to section forty-six of the Principal Ordinance.*

*Section 5.—Amends section forty-nine of the Principal Ordinance.*

*Section 6.—Repeals section fifty-two of the Principal Ordinance and substitutes a new section, fifty-two.*

*Section 7.—Adds a new sub-section (5) to section fifty-six of the Principal Ordinance.*

*Section 8.—Short Title.*

#### **No. 11 of 1943.—Unauthorized Expenditure (1941-1942).**

#### **No. 12 of 1943.—Roads Amendment.**

*Section 1.—Substitutes a new section fifty-seven in the Principal Ordinance*

*Section 2.—Substitutes a new section fifty-nine in the Principal Ordinance.*

*Section 3.—Short Title.*

#### **No. 13 of 1943.—Johannesburg Municipality Borrowing Powers Amendment.**

*Section 1.—Amends section five of Ordinance No. 3 of 1903.*

*Section 2.—Amends section thirty-six of Ordinance No. 3 of 1903.*

*Section 3.—Short Title.*

#### **No. 14 of 1943.—Public Hospitals Amendment.—Principal Ordinance, No. 18 of 1928.)**

*Section 1.—Amends section two of the Principal Ordinance.*

- Section 2.*—Amends section twelve of the Principal Ordinance.  
*Section 3.*—Amends section thirteen of the Principal Ordinance.  
*Section 4.*—Adds after section sixteen of the Principal Ordinance, a new section, sixteen bis, making provision for the Administrator to appoint members of hospital boards where boards or other bodies fail to do so.  
*Section 5.*—Repeals section seventeen of the Principal Ordinance and substitutes a new section seventeen.  
*Section 6.*—Amends section eighteen of the Principal Ordinance.  
*Section 7.*—Amends section twenty-nine of the Principal Ordinance.  
*Section 8.*—Amends section thirty-one of the Principal Ordinance.  
*Section 9.*—Amends section forty-seven of the Principal Ordinance.  
*Section 10.*—Amends section forty-eight of the Principal Ordinance.  
*Section 11.*—Repeals Chapter IV of the Principal Ordinance and substitutes a new Chapter IV (sections fifty-one to seventy-six inclusive).  
*Section 12.*—Amends the Second Schedule to the Principal Ordinance.  
*Section 13.*—Fixes the date of operation of section fifty-two (1) to (4).  
*Section 14.*—Repeals sections twenty-one, twenty-two, twenty-seven and thirty-one of Ordinance No. 22 of 1931.  
*Section 15.*—Short Title.

## PUBLIC HOSPITALS INTERIM CONTROL.

No. 15 of 1943.]

[Assented to 14th July 1943.]

*(English Text signed by Governor-General.)*

## AN ORDINANCE

To Provide for the Establishment of a Public Hospitals Advisory Council and a Department of Hospital Services and to amend the Public Hospitals Ordinance, 1928, as amended.

BE IT ENACTED by the Provincial Council of Transvaal as follows:—

**Definitions.**

1. In this Ordinance, unless inconsistent with the context—

“Administrator” means the Administrator of the Province of Transvaal acting on the advice and with the consent of the Executive Committee of the said Province;

“council” means the Public Hospitals Advisory Council established by section two of this Ordinance;

“Director” means the Medical Director of Public Hospitals appointed in terms of paragraph (a) of sub-section (2) of section eight of this Ordinance;

“principal ordinance” means the Public Hospitals Ordinance, 1928 (Ordinance No. 18 of 1928), and any amendment thereof;

“public hospital” shall have the meaning which has been assigned to it by the principal ordinance.

**Establishing of Public Hospitals Advisory Council.**

2. (1) There is hereby established a council to be known as the Public Hospitals Advisory Council.

(2) The council shall consist of the following members:—

(a) the Provincial Secretary of the Transvaal or such other person as in the opinion of the Administrator has the necessary administrative and financial experience and is appointed by the Administrator to serve on the council in the place of the Provincial Secretary;

(b) the Secretary for Public Health or a person appointed by him as his deputy;

(c) the Medical Director of Public Hospitals appointed in terms of paragraph (a) of sub-section (2) of section eight;

(d) two medical practitioners appointed by the Transvaal Medical Associations;

(e) four persons who in the opinion of the Administrator have had experience in or have special knowledge of some phase of hospital administration or finance and are appointed by him to serve on the council;

(f) the principal of every university in the Province which has a faculty of medicine and the dean of the faculty of medicine of every such university;

(g) a person appointed by the Transvaal Branch of the South African Trained Nurses' Association.

(3) The council shall function from a date to be determined by the Administrator by proclamation in the *Provincial Gazette*. If by that date or on any subsequent date any of the persons referred to in sub-section (2) of this section have not been appointed or are unable or unwilling to serve as members of the council it shall be lawful for the remaining members to carry on the functions of the council as if all the members of the council had been

duly appointed or are serving; provided that as soon as any such member is appointed or is able or willing to serve as a member he shall be allowed to serve on the Council.

#### **Chairman.**

3. The Administrator shall from time to time appoint one of the members of the council as Chairman of the council for such period as he may deem fit; provided that a Chairman shall be eligible for re-appointment.

#### **Casual Vacancies.**

4. (1) Whenever the office of a member becomes vacant the person or body by whom he was appointed shall appoint a successor to fill the vacancy. The name of such successor shall be notified by the Administrator in the *Provincial Gazette*.

(2) Every person appointed to fill a casual vacancy shall hold office for the remainder of the period for which his predecessor would have remained in office.

#### **Failure to Appoint Members.**

5. Should any one of the bodies referred to in paragraphs (d) and (g) of sub-section (2) of section *two* fail or refuse to appoint its representatives or representative within a period prescribed by the Administrator he shall have the right himself to appoint members or a member, as the case may be, to represent any such body.

#### **Members' Fees and Subsistence and Transport Allowances.**

6. (1) The members of the council shall when engaged on the service of the council be paid such fees and subsistence and transport allowances as are prescribed by regulation.

(2) All fees and subsistence and transport allowances payable to members of the council shall be paid out of monies to be appropriated by the Provincial Council for the purpose.

#### **Dissolution of Advisory Council Appointed under section four of Ordinance No. 18 of 1928.**

7. The Advisory Council appointed in terms of section *four* of the principal ordinance shall be automatically dissolved on publication of the notice referred to in sub-section (3) of section *two* of this Ordinance.

#### **Creation of a Department of Hospital Services.**

8. (1) The Administrator may create within the Transvaal Provincial Administration a department of hospital services for the regulation, control and administration of public hospitals.

(2) (a) Subject to the laws governing the public service of the Union the Administrator may from time to time appoint an officer to be known as the Medical Director of Public Hospitals as head of the department of hospital services. The Administrator shall, however, not appoint any person under this paragraph unless—

(i) such person is a medical practitioner and is registered as such under the Medical, Dental and Pharmacy Act, 1928 (Act No. 13 of 1928), or any amendment thereof;

(ii) such person has the qualifications (if any) prescribed in terms of paragraph (g) of section *nine*.

(b) Subject to the laws governing the public service of the Union the Administrator may from time to time—

(i) create such professional, administrative, clerical and other posts in the department of hospital services as he may deem fit;

(ii) appoint persons to such posts.

#### **Regulations.**

9. The Administrator may from time to time make regulations not inconsistent with or repugnant to the provisions of this Ordinance—

(a) prescribing the powers and duties of the council;

(b) prescribing the period of office of members of the council and the circumstances under which they shall be disqualified from being or continuing to be members;

(c) prescribing the fees and subsistence and transport allowances to be paid to members of the council when engaged on the service of the council;

(d) prescribing the quorum of meetings of the council, the keeping of minutes, the intervals at which meetings shall be held, the convening of special meetings, the appointment of a secretary and treasurer and generally the conduct of the business and the procedure at meetings of the council;

(e) prescribing the appointment or election of an acting chairman during the absence of the chairman;

- (f) prescribing the powers and duties of the chairman or acting chairman;  
(g) generally in respect of all matters which he considers necessary or expedient to prescribe for the achievement of the purposes of this Ordinance.

**Amendment of section two of Ordinance No. 18 of 1928, as amended by section one of Ordinance No. 19 of 1930, section 2 of Ordinance No. 22 of 1931, section two of Ordinance No. 11 of 1936, and section one of Ordinance, No 9 of 1942.**

10. Section *two* of the principal ordinance is hereby amended by the substitution for the definition of "Council" of the following definition:—

"'Council', means the Public Hospitals Advisory Council established by section *two* of the Public Hospitals Interim Control Ordinance, 1943."

**Repeal of section four of Ordinance No. 18 of 1928.**

11. Section *four* of the principal ordinance is hereby repealed.

**Short Title.**

12. This Ordinance may be cited as the Public Hospitals Interim Control Ordinance, 1943.

**No. 16 of 1943.—Appropriation (1943-1944).**

**No. 17 of 1943.—Financial Further Adjustments.**

Ordinance No. 18 of 1943.

[Assented to 23rd July 1943.

*(English text signed by Officer Administering the Government.)*

#### AN ORDINANCE

**To Amend the Municipal Elections Ordinance, 1927, and the Municipal Elections Amendment Ordinance, 1943.**

BE IT ENACTED by the Provincial Council of Transvaal as follows:—

**Definitions.**

1. In this Ordinance the expression "principal ordinance" means the Municipal Elections Ordinance, 1927, as amended from time to time, and unless inconsistent with the context, the words and expressions in this Ordinance shall have the meaning which has been assigned to them by the said principal ordinance.

**Postponement of certain Municipal Elections and Extension of Periods of Office of certain Town Councillors.**

2. Notwithstanding anything to the contrary in the principal ordinance or any other law contained—

(a) the annual elections of councillors due to be held on the last Wednesday of October, 1943, in respect of those town councils whose annual elections were postponed in terms of the Municipal Elections Suspension Ordinance, 1940 (Ordinance No. 21 of 1940), and by the Municipal Elections Suspension Ordinance, 1941 (Ordinance No. 16 of 1941), read with section *nine* of the Local Government Amendment Ordinance, 1942 (Ordinance No. 11 of 1942), are hereby postponed for a further period ending on a date to be determined by the Administrator by proclamation in the *Provincial Gazette* as the date on which the aforesaid elections shall take place; provided, however, that such date shall not extend beyond the 29th day of February, 1944;

(b) the period of office of the persons who are members of the aforesaid town councils and are due to retire on the last Wednesday of October, 1943, is hereby extended to the date immediately preceding the date determined by the Administrator under paragraph (a) of this section.

**Period of Office of Town Councillors.**

3. The persons declared elected as councillors at the elections held on the date determined under paragraph (a) of section *two* of this Ordinance and the persons declared elected as councillors on the day of nomination for any such election shall notwithstanding anything to the contrary in the principal ordinance contained hold office from the date determined as aforesaid. The councillors declared elected as aforesaid who fill the vacancies caused by the retirement of councillors owing to the expiration of the period of office for which such last-mentioned councillors were elected shall notwithstanding anything to the contrary in the principal ordinance contained continue in office until the last Wednesday of October, 1946.

**Mayors and Deputy-Mayors and Allowances.**

4. (1) Any mayor and deputy-mayor of a municipality in respect of which the annual election due to be held on the last Wednesday of October, 1943,

is postponed by paragraph (a) of section *two* of this Ordinance, shall continue in office until their respective successors are appointed as prescribed by sections *sixteen* and *seventeen* of the Local Government Ordinance, 1939 (Ordinance No. 17 of 1939), read with section *nine* of this Ordinance.

(2) Notwithstanding anything to the contrary in section *nineteen* of the Local Government Ordinance, 1939, contained it shall be lawful for a town council referred to in paragraph (a) of section *two* of this Ordinance to cause the monthly payments referred to in sub-sections (1), (2) and (3) of the said section *nineteen* and payable at the date of commencement of this Ordinance to continue to be paid to the mayor or deputy-mayor, as the case may be, until the successor to the mayor has been appointed.

#### **Casual Vacancies.**

5. If a casual vacancy occurs in a council referred to in paragraph (a) of section *two* of this Ordinance, during the period 28th July, 1943, to the 30th September, 1943, such vacancy shall notwithstanding anything to the contrary in the principal ordinance contained not remain until the date determined under that paragraph but shall be filled up at a special election which shall be held in manner provided in the principal ordinance for the election of candidates at an annual election. If a vacancy occurs in a council referred to in the said paragraph (a) during the period 1st October, 1943, to the date determined as aforesaid, then the vacancy shall not be filled up at a special election but shall remain until the date determined as aforesaid; provided always that such vacancies do not exceed three in number in which case they shall be filled up at a special election held for the purpose and provided further that no casual vacancy shall be filled at the election held on the date determined as aforesaid unless such vacancy has occurred prior to the first publication of the notice mentioned in section *thirty* of the principal ordinance.

#### **Enrolment of Voters.**

6. (1) Notwithstanding anything to the contrary contained in the second proviso to sub-section (1) of section *nineteen* of the principal ordinance, read with section *nine* of this Ordinance, a town council referred to in paragraph (a) of section *two* of this Ordinance, which does not cause a list to be made in terms of section *seven* of this Ordinance shall cause the names of those persons whose applications (in the form prescribed in the Third Schedule to the principal ordinance) to be enrolled as voters are received by the council on or before the 30th day of September, 1943, to be placed on the voters' roll upon which the election determined by the Administrator under the said paragraph (a) will be held if the council is satisfied that such persons are duly qualified under the provisions of the principal ordinance to be so enrolled. No person whose application is received after that date shall be enrolled on that voters' roll.

(2) Notwithstanding anything to the contrary contained in sub-section (6) of section *fifteen* of the principal ordinance read with section *nine* of this Ordinance any person who has been registered as a voter in respect of any ward of a municipality the annual election in respect of which is postponed by paragraph (a) of section *two* of this Ordinance may up to the 30th day of September, 1943, apply to the town clerk of that municipality for the transfer of his name as voter from such ward to another ward in the municipality and upon receipt of such application the town clerk shall so transfer the name of such person provided he is satisfied that such person resides in such other ward and provided further that such transfer shall not entitle such person to vote at any election to fill a casual vacancy where such election takes place within two months of his application for such transfer.

#### **Voters' Rolls.**

7. Notwithstanding anything to the contrary in the principal ordinance or the municipal Elections Amendment Ordinance, 1943 (Ordinance No. 9 of 1943) contained, it shall be lawful for a town council which has in terms of sub-section (1) of section *four* of the lastmentioned Ordinance postponed up to the 29th February, 1944, the making of a list of all persons qualified to be enrolled on the voters' roll under the provisions of the principal ordinance to cause such list to be made in manner prescribed in the principal ordinance at any time before that date; provided that if such list is made such names of persons qualified to be enrolled on the voters' roll under the provisions of the principal ordinance as are in the hands of the council by the 30th day of September, 1943, shall be placed on such list and no name received after that date shall be placed on that list. If a list is made in terms of this section the council shall, notwithstanding anything to the contrary in the aforesaid ordinances contained again during the months of March and April, 1947, cause such a list to be made and thereafter once every three years in the months of March and April.

**Notices Concerning Supplementary Voters' Rolls.**

8. (1) If a town council of a municipality postpones in terms of sub-section (1) of section *four* of the Municipal Elections Amendment Ordinance, 1943, the making of a list of all persons qualified to be enrolled on the voters' roll under the provisions of the principal ordinance it shall not be compulsory for the town clerk of that municipality to publish the notice prescribed by sub-section (4) of section *fifteen* of the principal ordinance during the months of January and April, 1943.

(2) Sub-section (1) of this section shall be deemed to have come into operation on the first day of January, 1943.

**Deferred Election deemed to be an Annual Election for Certain Purposes.**

9. For the purposes of sub-section (6) of section *fifteen*, the second proviso to sub-section (1) of section *nineteen* and sub-section (2) of section *twenty-five* of the principal ordinance and sections *sixteen* and *seventeen* of the Local Government Ordinance, 1939, the elections held on the date determined under paragraph (a) of section *two* of this Ordinance shall be deemed to be annual elections.

**Committees.**

10. All the committees of the councils referred to in paragraph (a) of section *two* of this Ordinance in office on the last Wednesday of October, 1943, shall continue in office until the date determined under that paragraph; provided that any such committee may at any time be dissolved after notice of motion to that effect by the vote of a majority of the whole council. The said councils shall as soon as possible after the date determined as aforesaid appoint new committees as set out in sections *twenty-eight* and *twenty-nine* of the Local Government Ordinance, 1939.

*Section 11.—Amends section fifteen of Ordinance No. 4 of 1927 with effect from the 1st January, 1944.*

**SHORT TITLE.**

12. This Ordinance may be cited as the Municipal Elections Further Amendment Ordinance, 1943.

**No. 19 of 1943.—Local Government Amendment.—Principal Ordinance, No. 17 of 1939.)**

*Section 1.—Amends section fifty-two of the Principal Ordinance.*

*Section 2.—Amends section sixty-four of the Principal Ordinance.*

*Section 3.—Amends section seventy-nine (32) of the Principal Ordinance.*

*Section 4.—Amends section eighty (49) of the Principal Ordinance.*

*Section 5.—Adds after section ninety of the Principal Ordinance, a new section, ninety bis, dealing with the renewal of applications for licences.*

*Section 6.—Adds, after section one hundred and seventy of the Principal Ordinance, a new section, one hundred and seventy bis, enabling the Administrator to dissolve local authorities if their financial position deteriorates.*

*Section 7.—Amends section one hundred and seventy-two of the Principal Ordinance.*

*Section 8.—Short Title.*

**PERI-URBAN AREAS HEALTH BOARD.**

**No. 20 of 1943.**

[Assented to 30th November, 1943.]

(Date of Operation 21st February, 1944.)

(English text signed by Officer Administering the Government.)

**AN ORDINANCE**

**To Provide for the Constitution of a Board for the Management, Regulation and Control of Matters Affecting the Public Health in Certain Areas not Controlled by Local Authorities, to Prescribe the Powers and Duties of the Board, and to Provide for Matters Incidental thereto.**

BE IT ENACTED by the Provincial Council of Transvaal as follows:—

**Definitions.**

1. In this Ordinance, unless inconsistent with the context—

“Administrator” means the Administrator of the Province of Transvaal acting on the advice and with the consent of the Executive Committee of the said Province;

“board” means the Peri-Urban Areas Health Board established by section *two* of this Ordinance;

“local authority area” means—

(a) the area of jurisdiction of a city council, town council, village council

or health committee constituted under and by virtue of the provisions of the Local Government Ordinance, 1939 (Ordinance No. 17 of 1939);

(b) the area of jurisdiction of any local council established under section five of the Native Affairs Act, 1920 (Act No. 23 of 1920), as amended by section one of Act No. 15 of 1927;

(c) the area of jurisdiction of any local authority established under section thirty of the Native Administration Act, 1927 (Act No. 38 of 1927), as amended by section nine of Act No. 21 of 1943;

(d) any land—

(i) in a scheduled native area, or

(ii) in an area which is in terms of sub-section (1) of section two of the Native Trust and Land Act, 1936 (Act No. 18 of 1936), as amended, a released area,

of which the South African Native Trust constituted under section four of that Act or a native is the registered owner; provided that for the purposes of this paragraph the words "native", "registered owner" and "scheduled native area" shall have the meaning which has been assigned to them by section forty-nine of that Act;

"regulation" means a regulation made under this Ordinance.

#### **Establishing of Peri-Urban Areas Health Board.**

2. There is hereby established a body to be known as the Peri-Urban Areas Health Board.

#### **Board to be a Juridic Person.**

3. (1) The board shall be a body corporate, capable of suing and being sued in its corporate name and of performing all such acts as are necessary for or incidental to the carrying out of its functions and powers under this Ordinance.

(2) The board shall not lose its corporate existence if for any reason any or all the seats on the board are vacant.

#### **Composition of Board.**

4. The board shall consist of five members

#### **Appointment and Tenure of Office of Members of the Board.**

5. (1) Members of the board shall be appointed by the Administrator.

(2) Subject to the provisions of sub-section (3) of this section and section six, each member of the board shall hold office for a period of five years; provided that—

(a) one member of the board shall retire at the end of each year calculated from the commencement of this Ordinance;

(b) when the members of the first board are appointed the Administrator shall determine which member shall retire after the expiration of—

- (i) the first year,
- (ii) the second year,
- (iii) the third year;
- (iv) the fourth year,
- (v) the fifth year;

(c) a retiring member shall be eligible for reappointment.

(3) The Administrator may remove a member from office if such member absents himself from three consecutive meetings of the board without leave of the board.

#### **Disqualifications of Members.**

6. The following persons shall not be qualified to be appointed as members of the board or if members of the board of continuing to be members:—

(a) any person who is not a Union National;

(b) any person who has at any time been convicted of any crime or offence for which he has been sentenced to imprisonment without the option of a fine unless he has received a free pardon or unless such imprisonment has expired at least three years before the date of his election or appointment;

(c) any person who is of unsound mind and has been so declared by a competent Court or judicial officer;

(d) any person who is an unrehabilitated insolvent.

#### **Chairman.**

7. (1) The Administrator shall from time to time appoint one of the members of the board as chairman of the board for such period as he may deem fit; provided that a chairman shall be eligible for reappointment.

(2) The chairman shall preside at all meetings of the board at which he is present. If the chairman is absent from any meeting of the board the members present shall elect one of their number to act as chairman at that

meeting, and the person so elected shall during the absence from that meeting of the chairman exercise all the functions of the chairman.

(3) All questions arising at any meeting of the board shall be decided by a majority of the votes of the members present. In the event of an equality of votes the chairman or in his absence the acting chairman, shall have a casting vote in addition to his deliberative vote.

#### **Quorum.**

8. Three members of the board shall form a quorum.

#### **Meetings of the Board.**

9. (1) The first meeting of the board shall be held on a day and at a place to be appointed by the Administrator.

(2) Ordinary meetings of the board shall be held at such intervals as the board may from time to time determine.

(3) The Chairman may at any time and shall at the request in writing of at least two members convene a special meeting of the board.

#### **Declaration of Vacancy in the Event of Disqualification.**

10. Whenever a member of the board becomes disqualified as set out in section six the chairman or in his absence the acting chairman shall as soon as possible after such disqualification shall have come to his knowledge declare at a meeting of the board that a vacancy has occurred and shall forthwith advise the Administrator and the member concerned of such declaration. The office of such member shall become vacant as from the date on which the declaration is made.

#### **Resignation or Death.**

11. (1) A member may by writing under his hand addressed to the chairman of the board, resign his office as from a specified date. The chairman or in his absence the acting chairman shall at the first meeting held after such specified date declare that a vacancy has occurred. In the event of the death of any member such declaration shall be made at the first meeting of the board held after the occurrence of the death.

(2) Whenever the office of a member is declared vacant under sub-section (1) the chairman or acting chairman whoever declared the member's office vacant, shall forthwith advise the Administrator of such declaration.

#### **Filling of Casual Vacancies.**

12. (1) The Administrator shall as soon as possible after the occurrence of a vacancy appoint a successor to fill the vacancy.

(2) Every person appointed under sub-section (1) shall hold office for the remainder of the period for which his predecessor would have remained in office.

#### **Minutes of Meetings.**

13. (1) Minutes of the proceedings of every meeting of the board or a committee of the board or a local area committee or an advisory committee shall be regularly kept and shall contain properly arranged details of the business conducted at the meeting.

(2) The minutes of the proceedings of each meeting shall be submitted at the next ensuing meeting and if passed thereat as correct shall be confirmed by the signature of the chairman or in his absence the acting chairman.

(3) Minutes of proceedings which have been confirmed as aforesaid shall without further proof be *prima facie* evidence in all courts and places of the proceedings of the meetings of which they purport to be minutes.

(4) Minutes of proceedings shall be open to inspection by any person authorised thereto by the Administrator.

#### **Area of Jurisdiction of Board.**

14. (1) The Administrator shall as soon as possible after the commencement of this Ordinance by proclamation in the *Provincial Gazette* declare that those areas in the Province of Transvaal which are not or do not form part of a local authority area and for which in his opinion special provision should be made for the proper management, regulation and control of matters affecting the public health in such areas by reason of the density of the population or their class or character or the sanitary conditions affecting such areas, shall be under the jurisdiction of the board.

(2) Whenever the Administrator is of opinion that by reason of the density of the population of any area in the Province of Transvaal, not being or forming part of a local authority area or the class or character of such area or the sanitary conditions affecting such area it is necessary that special provision should be made for the proper management, regulation and control of matters



affecting the public health in such area he may by proclamation in the *Provincial Gazette* include such area in the area of jurisdiction of the board.

(3) The Administrator may from time to time by proclamation in the *Provincial Gazette* diminish the area of jurisdiction of the board.

#### Functions of the Board.

15. The functions of the board shall be the management, regulation and control of matters affecting the public health in its area of jurisdiction and the establishment, management and control in such area of such local works or undertakings and the carrying out of such other powers and duties as it may be authorised or required to undertake under this Ordinance.

#### General Powers and Duties of the Board.

16. (1) The board shall within its area of jurisdiction perform the powers and duties conferred or imposed upon urban local authorities by the Public Health Act, 1919 (Act No. 36 of 1919), or any amendment thereof.

(2) The provisions of section *thirty-three to thirty-eight*, inclusive, and sections *one hundred and sixty-two, one hundred and sixty-three, one hundred and sixty-six, one hundred and sixty-seven and one hundred and sixty-eight* of the Local Government Ordinance, 1939, shall apply *mutatis mutandis* to the board; provided that for the purposes of this section the words "council", "town clerk", "mayor", "local authority", "councillor" and "municipality" in those sections shall be construed as meaning "board", "secretary-treasurer", "chairman", "board", "member of the board", and "area under the jurisdiction of the board", respectively.

(3) The Administrator may from time to time by proclamation in the *Provincial Gazette* apply any of the provisions of Chapters VI and VII and parts I and II of Chapter X of the Local Government Ordinance, 1939, *mutatis mutandis* to the board where such provisions are not already applicable to the board, and withdraw any such proclamation.

#### Members' Salaries and Subsistence and Transport Allowances.

17. (1) The chairman and other members of the board shall be paid such fees and subsistence and transport allowances as may from time to time be determined by the Administrator.

(2) All amounts payable under sub-section (1) shall be paid out of moneys to be appropriated by the Provincial Council for the purpose.

#### Officers and Servants of the Board.

18. (1) Subject to the provisions of sub-section (3) of this section and sections *twelve and fourteen* of the Public Health Act, 1919, as amended, the board may—

(a) with the Administrator's consent from time to time appoint a Secretary-Treasurer, a Chief Medical Officer of Health, Assistant Medical Officers of Health and Sanitary Inspectors;

(b) from time to time appoint such other officers and servants as it may consider necessary.

(2) Subject to the provisions of sub-section (3) of this section the conditions of appointment and service of persons appointed under sub-section (1) of this section shall be as prescribed by regulation.

(3) The provisions of sub-sections (2) to (5), inclusive, of section *sixty-two* of the Local Government Ordinance, 1939, as amended, shall apply *mutatis mutandis* in respect of the board and officers and servants of the board; provided that the words "council" and "municipal" in those sub-sections shall for the purposes of this section be construed as meaning "board" and "board's" respectively.

(4) The provisions of the Local Government Superannuation Ordinance, 1930 (Ordinance No. 16 of 1930), or any amendment thereof, shall be applied *mutatis mutandis* to the board and the officers and servants of the board who fall under the definition of "employee" in section nine of that Ordinance; provided that the words "local authority" in that Ordinance shall, for the purposes of this sub-section be construed as including the board.

#### Conduct of Members and Officers and Servants of the Board.

19. The provisions of section *thirty-nine* and sub-sections (2) to (4) inclusive of section *forty* and sections *forty-two to forty-seven*, inclusive, of the Local Government Ordinance, 1939, as amended, shall be applied *mutatis mutandis* to members and officers and servants of the board; provided that the words "council", "councillor" and "municipality" in those sections shall for the purposes of this section be construed as meaning "board", "member of the board" and "area under the jurisdiction of the board" respectively.

#### Committees.

20. (1) The board may from time to time appoint from its members one or

more committees, either of a general or special nature for any purpose which in the opinion of the board would be better managed by means of a committee.

(2) Such committee shall consist of so many members as the board may determine. When appointing such committee the board may co-opt one or more persons who are not members of the board to serve on the committee.

(3) The board may delegate to any such committee with or without such restrictions or conditions as it may think fit such of its functions as it may from time to time determine and cancel any such delegation.

(4) The board shall fix the quorum of any such committee.

(5) Each committee shall report its proceedings to the board, but to the extent to which the board so directs the acts and proceedings of the committee shall not require the approval of the board.

(6) Each committee shall elect its own chairman. If the chairman of the committee is absent from any meeting of the committee the members present shall elect one of their number to act as chairman at that meeting and the person so elected shall during the absence from that meeting of the chairman exercise all the functions of the chairman.

(7) Every committee appointed by the board may be dissolved after notice of motion to that effect by the vote of a majority of the members of the board.

(8) All questions arising at any meeting of a committee shall be decided by the majority of the votes of the members of the committee who are present. In the event of an equality of votes the chairman or in his absence the acting chairman shall have a casting vote in addition to his deliberative vote.

#### **Local Area Committees.**

21. (1) The board may from time to time with the Administrator's consent establish local area committees in respect of such portions of its area of jurisdiction as in its opinion require closer supervision and control than would ordinarily be exercised by the board.

(2) The constitution, powers and duties of local area committees shall be as prescribed by regulation.

#### **Advisory Committees.**

22. (1) The board may from time to time with the Administrator's consent appoint advisory committees for particular areas within the boards' area of jurisdiction to keep the board in touch with local requirements.

(2) The constitution, powers and duties of advisory committees shall be as prescribed by regulation.

#### **Meetings of the Board to be Open to the Public.**

23. Every meeting of the board shall be open to the public and the press; provided that the provisions of this section shall not apply to any committee of the board; provided further that where such committee is dealing with an application for a licence or the renewal thereof the proceedings of such committee shall, in its discretion, be open to the public and the press.

#### **Meetings deemed to be Duly Held.**

24. Whenever the minutes of the proceedings of a meeting have been confirmed as set out in sub-section (2) of section *thirteen* such meeting shall, unless the contrary is proved, be deemed to have been duly convened and held and all members at the meeting shall be deemed to have been duly qualified. Whenever the minutes of the proceedings of a committee of the board or a local area committee or an advisory committee have been so confirmed the committee concerned shall, unless the contrary is proved, be deemed to have been duly constituted and to have and had power to deal with the matter referred to in the minutes.

#### **Books of Board to be prima facie Evidence of Sums Due.**

25. The books and records of the board and any extracts therefrom certified by the secretary-treasurer or other officer authorised thereto by the board shall, in any proceedings for the recovery of sanitary fees or charges for the supply of water or electricity or for any other service rendered by the board, be *prima facie* evidence of the amounts due for the same.

#### **Revenue of the Board.**

26. The revenue of the board shall consist of—

- (a) rates levied by the board;
- (b) all fines imposed by a competent court and forfeited bail bonds for the contravention of the by-laws, regulations or the provisions of this Ordinance;
- (c) all licence moneys on licences issued by the board and all pound fees and taxes on dogs chargeable or leviable by the board;
- (d) all charges made by the board for the supply of electricity, water and sanitary services;

(e) all other fees, moneys or charges recoverable by the board or to which the board is entitled under this Ordinance or any other law.

#### Special Subsidy.

27. During the first year of the board's existence there shall be paid to it a grant of £5,000 out of the Provincial Revenue Fund, during the second year £2,500 and during the third year £1,250.

#### Motor Revenue.

28. The provisions of section *fty-two* of the Motor Vehicle Ordinance, 1931 (Ordinance No. 17 of 1931), as amended, and sub-section (7) of section *thirty-five* of the Motor Vehicle Regulations framed under that Ordinance and published in Administrator's Notice No. 515 of the 4th November, 1931, as amended, shall apply *mutatis mutandis* to the board; provided that—

(a) for the purposes of this section—

(i) the expression "local authority" in that section and sub-section shall be construed as meaning "board";

(ii) the word "municipality" in that section and sub-section shall be construed as meaning the area comprising the areas of jurisdiction of all the local area committees, and the areas of duly established townships within the board's area of jurisdiction and it shall be deemed that the board is a local authority having control, under the Local Government Ordinance, 1939, of such first-mentioned area;

(b) any amount payable to the board under this section in respect of a local area committee area, shall be earmarked by the board for the particular local area committee.

#### Rating.

29. The provisions of the Local Authorities Rating Ordinance, 1933 (Ordinance No. 20 of 1933), and any amendment thereof, shall be applied *mutatis mutandis* to the board; provided that—

(a) the expressions "local authority" and "town clerk" in that Ordinance, shall for the purposes of this section, be construed as meaning "board" and "secretary-treasurer" respectively;

(b) the board shall prepare a valuation roll quinquennially and not triennially;

(c) the board shall not levy any rate unless the prior approval of the Administrator has been obtained.

#### Recovery of Sanitary Rates.

30. The provisions of section *forty-nine* of the Local Government Ordinance, 1939, and any amendment thereof, shall be applied *mutatis mutandis* in connection with the recovery of moneys due for sanitary services and water where water-borne sewerage has been installed; provided that for the purposes of this section the word "council" in that section shall be construed as meaning "board".

#### Acquisition and Alienation of Property.

31. The provisions of sub-sections (18) and (24) of section *seventy-nine* of the Local Government Ordinance, 1939, and any amendment thereof, shall apply *mutatis mutandis* to the board; provided that the words "council" and "municipality" in those sub-sections shall for the purposes of this section be construed as meaning "board" and "area under the jurisdiction of the board" respectively.

#### Borrowing Powers, Overdrafts and Depreciation Regulations.

32. The provisions of sections *fifty-two* to *fifty-five*, inclusive, of the Local Government Ordinance, 1939, and any amendment thereof, shall be applied *mutatis mutandis* to the board; provided that the words "council", "town clerk", "local authority" and "municipality" in those sections shall for the purposes of this section be construed as meaning "board", "secretary-treasurer", "board", and "area under the jurisdiction of the board" respectively.

#### Accounts and Audit.

33. The provisions of sections *fifty-six* to *sixty-one*, inclusive, of the Local Government Ordinance, 1939, and any amendment thereof, shall apply *mutatis mutandis* to the board; provided that the words "council", "town clerk" and "local authority" in those sections shall for the purposes of this section be construed as meaning "board", "secretary-treasurer" and "board" respectively.

**Townplanning.**

34. (1) The provisions of Chapter IV and sections *fifty-six ter* and *fifty-eight* and sub-section (3) of section *fifty-nine* of the Townships and Town-planning Ordinance, 1931 (Ordinance No. 11 of 1931), as amended, shall be applied *mutatis mutandis* to the board; provided that the words "local authority" in that Chapter and sub-section and those sections shall for the purposes of this section be construed as meaning "board".

(2) The board may co-operate with the Joint Town-planning Committee of the Witwatersrand and Pretoria with a view to preparing a regional planning scheme, so as to fit in with the municipal schemes already prepared, to such an extent as the Administrator, in consultation with the board and the committee may decide.

**Expropriation.**

35. The provisions of the Municipalities Powers of Expropriation Ordinance, 1903 (Ordinance No. 64 of 1903), or any amendment thereof, shall apply to the board.

**Public Places.**

36. Section *sixty-three* of the Local Government Ordinance, 1939, shall *mutatis mutandis* apply to the board; provided that—

(a) the words "council" and "municipality" in that section shall for the purposes of this section be construed as meaning "board" and "area under the jurisdiction of the board", respectively;

(b) the board shall not have the control and management of public roads and outspans mentioned in the Roads Ordinance, 1933 (Ordinance No. 9 of 1933), as amended, or roads in agricultural holdings as defined in section *seven* of the Agricultural Holdings (Transvaal) Registration Act, 1919 (Act No. 22 of 1919), and of roads which the Governor-General has, in terms of sub-section (1) of section *four* of the National Roads Act, 1935 (Act No. 42 of 1935), as amended, declared to be national roads, and the same shall not be vested in the board as set out in the said section *sixty-three*.

**Validity of Board's Decisions and Acts.**

37. No decision or act of the board or act done under the authority of the board shall be invalid by reason only of the fact that the board did not consist of the full number of members for which provision is made in section *four* or by reason only of the fact that a disqualified person sat or acted as a member of the board at the time such decision or act was taken, done or authorised.

**Limitation of Legal Proceedings.**

38. No civil legal proceedings shall be commenced against the board unless written notice of the intention to bring such proceedings shall have been served on the chairman of the board at least thirty days before such proceedings are commenced. Particulars as to the cause on which the proceedings are based shall be clearly and explicitly stated in such notice.

**Commissions of Inquiry.**

39. The Administrator may at any time in his discretion appoint a commission consisting of one or more persons to inquire into any matter relating to or affecting the board or the application of any provision of this Ordinance or the regulations, and to report to him thereon, and may confer on such commission the powers, jurisdiction and privileges of the Commissions' Powers Ordinance, 1902 (Ordinance No. 30 of 1902). Any such commission shall have the power to exclude the public and the press from any sitting or portion of a sitting.

**Dissolution of the Board.**

40. (1) Whenever the Administrator is satisfied that the board has failed or refused to perform any of the duties lawfully imposed upon it, or is improperly exercising or has improperly exercised its powers or duties, or has unreasonably failed or refused to exercise any power lawfully conferred upon it or has done or intends to do any illegal or grossly irregular act, he may by proclamation in the *Provincial Gazette* remove the members of the board from office.

(2) The Administrator may in such proclamation or in any subsequent proclamation, appoint new members of the board. For the purpose of determining the period of office of such new members they shall be regarded as members of the first board.

**Regulations.**

41. (1) The Administrator may from time to time make regulations not

inconsistent with or repugnant to the provisions of this Ordinance—

(a) prescribing the constitution, powers and duties of local area committees and advisory committees;

(b) subject to the provisions of section *eighteen* prescribing the conditions of appointment and service of officers and servants of the board;

(c) generally in respect of all matters which he considers necessary or expedient to prescribe for the achievement of the purposes of this Ordinance.

(2) (a) Any regulation in respect of misconduct or discipline made under paragraph (b) of sub-section (1) of this section may prescribe such sanctions for any contravention thereof or failure to comply therewith, as the Administrator may deem fit.

(b) Any other regulation made under sub-section (1) of this section may prescribe penalties for any contravention thereof or failure to comply therewith not exceeding a fine of £50 and in default of payment imprisonment with or without hard labour for a period not exceeding six months.

#### **By-laws.**

42. The board may when making by-laws under any proclamation issued in terms of sub-section (3) of section *sixteen* make different by-laws in respect of different portions of its area of jurisdiction or different classes of persons or premises.

#### **Regulations and By-laws to be Laid on Table of Provincial Council.**

43. (1) Regulations or by-laws referred to in sections *forty-one* and *forty-two* shall be published in the *Provincial Gazette* and shall within seven days of the date of publication be laid upon the Table of the Provincial Council if the Provincial Council be then in session, or if it be not then in session within seven days of the commencement of its next ensuing session.

(2) The Provincial Council may during the session in which any regulation or by-law has been laid on the Table of the Provincial Council by resolution disapprove of such regulation or by-law. On the passing of such resolution such regulation or by-law shall cease to be of force and effect, but nothing in this sub-section contained shall affect the validity of anything previously done under such regulation or by-law or the power to make a new regulation or by-law not inconsistent with or repugnant to the provisions of this Ordinance as to the subject-matter of that regulation or by-law.

#### **Amendment of section three of Ordinance No. 3 of 1932.**

44. Section *three* of the Licences (Control) Ordinance, 1931 (Ordinance No. 3 1932), is hereby amended by the insertion in paragraph (b) of sub-section (1) at the end thereof after the words "disestablish such board" of the following proviso:—

"provided that the Administrator may at any time after the commencement of the Peri-Urban Areas Health Board Ordinance, 1943, in his discretion, abolish or disestablish any board functioning within the area under the jurisdiction of the Peri-Urban Areas Health Board, established by section *two* of that Ordinance".

#### **Amendment of section one hundred and twenty-four of Ordinance No. 17 of 1939.**

45. Section *one hundred and twenty-four* of the Local Government Ordinance, 1939, is hereby amended by the insertion in sub-section (4) at the end thereof after the words "by the Administrator" of the words "Whenever a health committee is disestablished or abolished and the area for which the health committee was constituted is immediately thereafter incorporated in the area of jurisdiction of the Peri-Urban Areas Health Board established by section *two* of the Peri-Urban Areas Health Board Ordinance, 1943, the provisions of this sub-section shall not apply but the assets and liabilities of such health committee shall be transferred to that board".

#### **Short Title and Date of Commencement of Ordinance.**

46. This Ordinance may be cited as the Peri-Urban Areas Health Board Ordinance, 1943, and shall come into operation on a date to be fixed by the Administrator by proclamation in the *Provincial Gazette*.

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ORDINANCES of TRANSVAAL

1944

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**No. 1 of 1944.—Appropriation (Part 1944-1945).**

**No. 2 of 1944.—Additional Appropriation (1943-1944):**

**No. 3 of 1944.]**

[Assented to 24th March, 1944.]

**AN ORDINANCE**

**To amend the Transvaal Teachers' Pensions Ordinance, 1916.**

*(Date of Operation, 12th April, 1944.)*

*(English copy signed by His Excellency the Officer Administering the Government.)*

BE IT ENACTED by the Provincial Council of Transvaal as follows:—

**Repeal of Section 29 of Ordinance No. 5 of 1916, and substitution of New Section.**

1. Section *twenty-nine* of the Transvaal Teachers' Pensions Ordinance, 1916, Ordinance No. 5 of 1916, is hereby repealed and the following section substituted therefor:—

**" Pensioners Re-employed.**

29. (1) If any pensioner is employed in the service of the Department he shall be paid such salary and allowances as are recommended by the Director and approved by the Administrator, in addition to his pension.

(2) When the Department has in accordance with the provisions of sub-section (1) taken a pensioner into its employment, the Administrator shall, within a period of fourteen days as from the date of the commencement of the next session of the Provincial Council which commenced after the date upon which the pensioner was so taken into employment, lay upon the table of the Provincial Council a statement wherein is set forth—

(a) the name and age of the pensioner;

(b) the post which he held immediately before his retirement on pension;

(c) the amount of his pension;

(d) the post in which or the nature of the work for which he was taken into employment;

(e) the remuneration at which and the other terms upon which he was so taken into employment.

(3) Sub-section (1) of this section shall be deemed to have come into operation on the sixth day of September, 1939."

**Short Title.**

2. This Ordinance may be cited as the Transvaal Teachers' Pensions Amendment Ordinance, 1944.

**No. 4 of 1944.—Unauthorised Expenditure (1942-1943).**

**No. 5 of 1944.]**

[Assented to 5th April, 1944.]

**AN ORDINANCE**

**To provide for the payment of a gratuity to Ida Robertson Burroughs.**

*(Date of Operation 26th April, 1944.)*

*(English copy signed by His Excellency the Officer Administering the Government.)*

BE IT ENACTED by the Provincial Council of Transvaal as follows:—

**Award of Gratuity.**

1. Notwithstanding anything to the contrary in any law contained, it shall be lawful to award to Ida Robertson Burroughs, formerly a teacher in the service of the Transvaal Education Department, a gratuity of two hundred and seventy-three pounds eight shillings and eleven pence.

**Short Title.**

2. This Ordinance may be cited as the Pensions (Supplementary) Ordinance, 1944.

No. 6 of 1944.]

[Assented to 20th April, 1944.]

**AN ORDINANCE**

**To provide for further Assistance to Persons in Receipt of certain Pensions.**

(Date of Operation 10th May, 1944.)

(English copy signed by His Excellency the Officer Administering the Government.)

BE IT ENACTED by the Provincial Council of Transvaal as follows:—

**Definitions.**

1. In this Ordinance unless inconsistent with the context—

“ Administrator ” shall mean the officer appointed under sub-section (1) of section *sixty-eight* of the South Africa Act, 1909, or any amendment thereof, acting on the advice and with the consent of the Executive Committee of the Province;

“ Transvaal Teacher's Pensions Board ” shall mean the Pensions Board constituted under section *eighteen* of the Transvaal Teachers' Pensions Ordinance No. 5 of 1916, as substituted by section *twelve* of Ordinance No. 17 of 1927.

**Further Assistance to Persons in Receipt of Certain Pensions.**

2. (1) For the purposes of this Ordinance the Transvaal Teachers' Pensions Board shall be and is hereby constituted a Committee to consider any application for relief by any person who—

(a) under the Transvaal Teachers' Pensions Ordinance No. 5 of 1916, as amended, is in receipt of a pension arising out of the former service on the regular teaching staff of the Transvaal Education Department, of such person or of any other person; or

(b) under the Transvaal Hospital and School Board Officials' Pensions Ordinance No. 14 of 1927, as amended, is in receipt of a pension arising out of the former service in one of the offices or posts described in the schedule to that Ordinance, of such person or of any other person; or

(c) under the Transvaal Hospital Nurses' Pensions Ordinance No. 13 of 1919, as amended, is in receipt of a pension arising out of the former service as a nurse as defined in that Ordinance, of such person or of any other person; and

(d) is in necessitous circumstances as a result of conditions arising from the present war.

(2) The said Committee shall have the power, notwithstanding anything to the contrary in any other law contained, to supplement the pension of any such person by the award of a bonus in accordance with such rates as the Administrator may from time to time prescribe in respect of any class of such persons and with effect from a date not earlier than a date to be fixed by the Administrator by Proclamation in the *Gazette*.

(3) Any such bonus may be paid during such periods and at such rates as the Administrator may from time to time determine by Proclamation in the *Gazette*.

**Short Title.**

3. This Ordinance may be cited as the Teachers', Nurses' and Hospital and School Board Officials' Pensions Assistance Ordinance, 1944.



No. 7 of 1944.]

[Assented to 15th July, 1944.]

**AN ORDINANCE**

**To amend the Transvaal Hospital Nurses' Pensions Ordinance, 1919.**

*(Date of Operation 26th July, 1944.)\**

*(English copy signed by His Excellency the Officer Administering the Government.)*

BE IT ENACTED by the Provincial Council of Transvaal as follows:—

**Repeal of Section 21 of Ordinance No. 13 of 1919, as amended by Section 19 of Ordinance No. 9 of 1929 and substitution of New Section.**

1. Section *twenty-one* of the Transvaal Hospital Nurses' Pensions Ordinance, 1919, Ordinance No. 13 of 1919, as amended, is hereby repealed and the following section substituted therefor:—

**" Pensioners Re-employed.**

21. (1) If any pensioner is employed by a Board she shall be paid such salary and allowances as are recommended by the Board and approved by the Administrator, in addition to her pension.

(2) When a Board has in accordance with the provisions of sub-section (1) taken a pensioner into its employment, the Administrator shall, within a period of fourteen days as from the date of the commencement of the next session of the Provincial Council which commenced after the date upon which the pensioner was so taken into employment, lay upon the table of the Provincial Council a statement wherein is set forth—

- (a) the name and age of the pensioner;
- (b) the post which she held immediately before her retirement on pension;
- (c) the amount of her pension;
- (d) the post in which or the nature of the work for which she was so taken into employment;
- (e) the remuneration at which and the other terms upon which she was so taken into employment.

(3) Sub-section (1) of this section shall be deemed to have come into operation on the 6th day of September, 1939."

**Short Title.**

2. This Ordinance may be cited as the Transvaal Hospital Nurses' Pensions Amendment Ordinance, 1944.

No. 8 of 1944.]

[Assented to 15th July, 1944.]

**AN ORDINANCE**

**To amend the Johannesburg Municipality Borrowing Powers Ordinance, 1903.**

*(Date of Operation 26th July, 1944.)*

*(English copy signed by His Excellency the Officer Administering the Government.)*

BE IT ENACTED by the Provincial Council of Transvaal as follows:—

**Repeal of Section 3 of Ordinance No. 3 of 1903, and substitution of New Section.**

1. Section *three* of the Johannesburg Municipality Borrowing Powers Ordinance, 1903, as amended, is hereby repealed and the following section substituted therefor:—

**" Power to Issue Stock.**

3. The Council may from time to time by the issue of stock raise moneys to finance loan expenditure previously sanctioned in terms of the Local Government Ordinance, 1939 (Ordinance No. 17 of 1939), as amended."

\* Date of operation of section *twenty-one* (1), substituted by section *one*, 6th September, 1939.

**Short Title.**

2. This Ordinance may be cited as the Johannesburg Municipality Borrowing Powers Amendment Ordinance, 1944.

No. 9 of 1944.]

[Assented to 15th July, 1944.

**AN ORDINANCE**

**To amend the Horse Racing and Betting Ordinance, 1927.**

(Date of Operation 26th July, 1944.)

(English copy signed by His Excellency the Officer Administering the Government.)

BE IT ENACTED by the Provincial Council of Transvaal as follows:—

**Amendment of Section 1 of Ordinance No. 9 of 1927, as amended by Section 1 of Ordinance No. 11 of 1939.**

1. Section *one* of the Horse Racing and Betting Ordinance, 1927, as amended (hereinafter referred to as the principal ordinance) is hereby amended by the insertion in the definition of the expression "race day" after the words "Christmas Day" of the words "Dingaans Day".

**Amendment of Section 6 of Ordinance No. 9 of 1927.**

2. Section *six* of the principal ordinance is hereby amended by the insertion after the words "Good Friday" of the words "Dingaans Day".

**Amendment of Section 7 of Ordinance No. 9 of 1927.**

3. Section *seven* of the principal ordinance is hereby amended—

(a) by the insertion in sub-section (1) after the words "Christmas Day" of the words "Dingaans Day";

(b) by the insertion in sub-section (2) after the words "Christmas Day" of the words "Dingaans Day".

**Short Title.**

4. This Ordinance may be cited as the Horse Racing and Betting Amendment Ordinance, 1944.

No. 10 of 1944.]

[Assented to 15th July, 1944.

**AN ORDINANCE**

**To amend the Motor Vehicle Ordinance, 1931.**

(Date of Operation 26th July, 1944.)

(English copy signed by His Excellency the Officer Administering the Government.)

BE IT ENACTED by the Provincial Council of Transvaal as follows:—

**Amendment of Section 2 (1) of Ordinance No. 17 of 1931, as amended by Section 1 of Ordinance No. 4 of 1939, and Section 1 of Ordinance No. 18 of 1941.**

1. Section *two* of the Motor Vehicle Ordinance, 1931, as amended (hereinafter referred to as the principal ordinance) is hereby amended by the insertion of the following new sub-paragraph (v) in paragraph (b) of sub-section (1) thereof, the existing sub-paragraph (v) becoming sub-paragraph (vi):—

"(v) a motor vehicle in respect of which the registration was cancelled in terms of paragraph (c) of sub-section (4) of section *seven* has been recovered and in respect of which the cancellation of the registration certificate was not rescinded in terms of that section before the expiration of the licence."

**Insertion of new Section 4bis in Ordinance No. 17 of 1931.**

2. The following new section is hereby inserted in the principal ordinance after section *four*:—

" **Exemption certificates issued to Persons on Military Service.**

*4bis.* Notwithstanding anything to the contrary in this Ordinance contained an exemption certificate issued or hereafter issued under

the provisions of sub-section (6) of section *four* of this Ordinance to any person who leaves or has left the Union on military service, as defined in the Defence Special Pensions and Moratorium Act No. 29 of 1940, as amended, shall remain in full force and effect and no renewal fee shall be payable thereon while such person is on military service or a prisoner of war; provided that the provisions of this section shall cease to operate—

- (a) upon the motor vehicle or trailer being repaired or reinstated sufficiently for use, or sold or returned to the Union; or
- (b) upon the motor vehicle or trailer being broken up, destroyed or becoming permanently useless as a motor vehicle or trailer, or being removed permanently from the Province of Transvaal; or
- (c) upon the owner of the motor vehicle or trailer returning to the Union otherwise than on temporary military leave; or
- (d) upon the motor vehicle or trailer becoming the property of any other person; or
- (e) upon such date as the Administrator may prescribe by Proclamation in the *Gazette* ”.

**Amendment of Section 7 of Ordinance No. 17 of 1931, as amended by Section 5 of Ordinance No. 19 of 1933, and Section 3 of Ordinance No. 16 of 1938.**

3. Section *seven* of the principal ordinance is hereby amended—

- (a) by the deletion in sub-section (1) of the figure “(4)” and the substitution thereof of the figure “(6)”;
- (b) by the addition at the end of paragraph (b) of sub-section (4) of the following new paragraph—

“(c) If the owner of a registered motor vehicle reports to the registering authority at whose office the motor vehicle is registered that such motor vehicle has been stolen, he shall deliver to such registering authority the certificate of registration of the motor vehicle and the then current annual licence, if any, in respect thereof and the registering authority shall thereupon cancel the registration of the motor vehicle and the annual licence in respect thereof if, after due inquiry, he is satisfied that such motor vehicle has in fact been stolen; provided however that if the motor vehicle is recovered before the licence delivered to the registering authority would ordinarily have expired such registering authority shall rescind such cancellation and re-issue free of charge such registration certificate and licence in respect of such recovered motor vehicle.”

**Amendment of Section 13bis of Ordinance No. 17 of 1931, as substituted by Section 2 of Ordinance No. 12 of 1942.**

4. Section *thirteen bis* of the principal ordinance is hereby amended by the addition of the following new sub-section after sub-section (5):—

“(6) In the event of a motor vehicle being stolen and an insurance company has in terms of an insurance policy taken out in respect of such motor vehicle become the owner of such motor vehicle on its being recovered, the provisions of this section shall not be applicable.”

**Amendment of Part III of the First Schedule to Ordinance No. 17 of 1931, as amended by Section 24 of Ordinance No. 19 of 1933, Section 11 of Ordinance No. 16 of 1938, and Section 22 of Ordinance No. 22 of 1940.**

5. Part III of the First Schedule to the principal ordinance is hereby amended by the deletion of paragraphs (2) and (3) and the substitution thereof of the following paragraphs:—

“(2) Tractors used mainly for farming purposes or purposes in connection with the farming activities of the owner thereof; provided that where such tractors are not rubbertyred they are not used on public roads; provided further that nothing in this paragraph contained shall be construed as granting exemption from registration fees and annual licence fees in respect of tractors used for drawing and/or operating farming implements or machines or devices used on a farm other than that farmed by the owner of such tractor.

(3) Trailers drawn by tractors and used only in the manner and for the purposes described in paragraph (2); provided that in respect of trailers not fitted with pneumatic tyres, wheel tax, under the provisions of section *two* of the Wheel Tax Ordinance, No. 1 of 1941, shall be paid.”

**Short Title.**

6. This Ordinance may be cited as the Motor Vehicle Amendment Ordinance, 1944.

No. 11 of 1944.]

[Assented to 15th July, 1944.

**AN ORDINANCE****To amend the Fish Preservation Ordinance, 1921.***(Date of Operation 26th July, 1944.)**(English copy signed by His Excellency the Officer Administering the Government.)*

BE IT ENACTED by the Provincial Council of Transvaal as follows:—

**Amendment of Section 2 of Ordinance No. 10 of 1921.**

1. Section *two* of the Fish Preservation Ordinance, 1921, as amended (hereinafter referred to as the principal ordinance) is hereby amended by the insertion after the definition of the word "Administrator" of the following new definition:—

"Board" shall mean the Transvaal Inland Fisheries Advisory Board established under section *three bis* of this Ordinance."

**Insertion of new Section 3bis in Ordinance No. 10 of 1921.**

2. The following new section is hereby inserted in the principal ordinance after section *three*:—

**" Establishment of the Transvaal Inland Fisheries Advisory Board.**

*3bis.* (1) The Administrator may by Proclamation in the *Gazette* establish a Board to be known as the Transvaal Inland Fisheries Advisory Board.

(2) The members of the Board shall be appointed by the Administrator.

(3) The Administrator may from time to time prescribe by regulation—

- (a) the number of members who shall serve on the Board;
- (b) the powers, duties and functions of the Board;
- (c) the remuneration payable to members of the Board;
- (d) generally for the better carrying out of the functions, duties and power of the Board."

**Short Title.**

3. This Ordinance may be cited as the Fish Preservation Amendment Ordinance, 1944.

No. 12 of 1944.]

[Assented to 15th July, 1944.

**AN ORDINANCE****To provide for the postponement of School Board Elections and for the extension of the periods of office of members of School Boards.***(Date of Operation 26th July, 1944.)**(Afrikaans copy signed by His Excellency the Officer Administering the Government.)*

BE IT ENACTED by the Provincial Council of Transvaal as follows:—

**Definition.**

1. In this Ordinance "Administrator" means the Administrator of the Province of Transvaal, acting on the advice and with the consent of the Executive Committee of the said Province.

**Postponement of School Board Elections and extension of periods of Office of Members of School Boards.**

2. Notwithstanding anything to the contrary in any law contained—

- (a) the school board elections which were postponed by paragraph (a) of section *two* of the School Boards Elections Postponement Ordinance, 1943

(Ordinance No. 2 of 1943), are hereby further postponed for a period to be determined by the Administrator by proclamation in the *Provincial Gazette*; provided that such period shall not exceed twelve months;

(b) the period of office of members of school boards, who hold office as such on the thirtieth day of June, 1944, is hereby extended for the period determined by the Administrator, in terms of paragraph (a) of this section; provided that if any member becomes disqualified as set out in section forty of the Education Act, 1907 (Act No. 25 of 1907, Transvaal), or dies or resigns his office, his period of office shall terminate on the date on which he becomes disqualified as aforesaid or on which he dies or resigns his office.

**Short Title.**

3. This Ordinance may be cited as the School Boards Elections Postponement Ordinance, 1944.

**No. 13 of 1944.—Financial Adjustments.**

**No. 14 of 1944.—Appropriation (1944-1945).]**

**No. 15 of 1944.]**

[Assented to 2nd August, 1944.

**AN ORDINANCE**

**To amend the Transvaal Hospital and School Board Officials' Pensions Ordinance, 1927.**

(Date of Operation 16th August, 1944.\*)

(English copy signed by His Excellency the Officer Administering the Government.)

**BE IT ENACTED** by the Provincial Council of Transvaal as follows:—

**Repeal of Section 22 of Ordinance No. 14 of 1927 as amended by Section 17 of Ordinance No. 8 of 1929, and substitution of new Section.**

1. Section *twenty-two* of the Transvaal Hospital and School Board Officials' Pensions Ordinance, 1927, Ordinance No. 14 of 1927, as amended, is hereby repealed and the following section substituted therefor:—

**" Pensioners Re-employed.**

22. (1) (a) If any pensioned hospital officer is employed by a Board he shall be paid such salary and allowances as are recommended by the Board and approved by the Administrator, in addition to his pension.

(b) If any pensioned school board officer is employed in a post under a school board he shall be paid such salary and allowances as are recommended by the Director of Education of the Province of Transvaal and approved by the Administrator, in addition to his pension.

(2) When a pensioner has in accordance with the provisions of sub-section (1) been taken into employment by a Board or in a post under a school board, the Administrator shall, within a period of fourteen days as from the date of commencement of the next session of the Provincial Council which commenced after the date upon which the pensioner was so taken into employment, lay upon the table of the Provincial Council a statement wherein is set forth—

(a) the name and age of the pensioner;

(b) the post which he held immediately before his retirement on pension;

(c) the amount of his pension;

(d) the post in which or the nature of the work for which he was so taken into employment;

(e) the remuneration at which and the other terms upon which he was so taken into employment.

(3) Sub-section (1) of this section shall be deemed to have come into operation on the 6th day of September, 1939."

**Short Title.**

2. This Ordinance may be cited as the Transvaal Hospital and School Board Officials' Pensions Amendment Ordinance, 1944.

\* Date of operation of section *twenty-two* (1), substituted by section *one*, 6th September, 1939.

No. 16 of 1944.]

[Assented to 2nd August, 1944.]

**AN ORDINANCE****To provide for the payment of a special subsidy to the Meerhof Hospital Board.***(Date of Operation 16th August, 1944.)**(Afrikaans copy signed by His Excellency the Officer Administering the Government.)*

BE IT ENACTED by the Provincial Council of Transvaal as follows:—

**Provision for Subsidy on donation of Land and Buildings.**

1. Notwithstanding the provisions of the Public Hospitals Ordinance, 1928 (Ordinance No. 18 of 1928), as amended, there shall be paid to the Hospital Board of the Meerhof Chronic Sick Home for European Children an amount of seven thousand five hundred pounds (£7,500) as subsidy on donations as soon as transfer in title in the name of the Board aforesaid has been effected of certain land with the buildings and other fixtures thereon, situated at Meerhof, in the District of Brits, and registered in the name of the Trustees for the time being of the "News" Lakeside Health Resort and occupied by the Board aforesaid.

**Short Title.**

2. This Ordinance shall for all purposes be cited as the Meerhof Hospital Board Special Subsidy Ordinance, 1944.

No. 17 of 1944.]

[Assented to 2nd August, 1944.]

**AN ORDINANCE****To make provision for the Establishment of Loan Bursary Associations and matters incidental thereto.***(Date of Operation 16th August, 1944.)**(Afrikaans copy signed by His Excellency the Officer Administering the Government.)*

BE IT ENACTED by the Provincial Council of Transvaal as follows:—

**Definitions.**

1. In this Ordinance unless inconsistent with the context—

"Administrator" shall mean the officer appointed under sub-section (1) of section *sixty-eight* of the South Africa Act, 1909, or any amendment thereof, acting on the advice and with the consent of the Executive Committee of the Province;

"Association" shall mean a loan bursary association constituted under section *two* of this Ordinance;

"Department" shall mean the Department of Education of the Province of Transvaal;

"Director" shall mean the Director of Education of the Province of Transvaal;

"This Ordinance" includes any regulation made thereunder.

**Establishment of Loan Bursary Associations.**

2. (1) The Administrator may from time to time by Proclamation in the *Gazette* constitute a loan bursary association for any school and may assign a name to such association.

(2) Every association constituted as aforesaid shall under the name of the Loan Bursary Association of..... be each and severally a body corporate, capable of suing and being sued in its corporate name, of purchasing, holding and alienating land, and of performing all such acts as are necessary for or incidental to the carrying out of its functions and powers under this Ordinance.

(3) Every such association may sue and be sued in the name of the Chairman of the Association for the time being.

(4) Save as is provided in section *thirteen* an association shall not lose its corporate existence if for any reason any or all the seats on the association are vacant.

**Composition of Association and validity of Association's Decisions and Acts.**

3. (1) An association shall consist of not less than five and not more than seven members as the Administrator may determine.

(2) No decision or act of the association or act done under the authority of the association shall be invalid by reason only of the fact that the association did not consist of the full number of members as provided in sub-section (1) of this section or by reason of the fact that a disqualified person sat or acted as a member of the association at the time such decision or act was taken, done or authorised.

**Appointment and Tenure of Office of Members of the Association.**

4. (1) Members of the association shall be appointed by the Administrator.

(2) Subject to the provisions of section *five, eight, nine* or *twelve* each member of any association shall hold office for a period of 10 years as from the date of the establishment of such association; provided that a retiring member shall be eligible for reappointment.

**Disqualifications.**

5. The following persons shall not be qualified to be appointed as members of the association or if members of the association of continuing to be members—

- (a) any person who is an official of the Transvaal Education Department;
- (b) any person who is not permanently resident in the School Board District in which the school that is served by the association is situated;
- (c) any person who has at any time been convicted of any crime or offence for which he has been sentenced to imprisonment without the option of a fine unless he has received a grant of amnesty or a free pardon or unless such imprisonment has expired at least three years before the date of his appointment;
- (d) any person who is an unrehabilitated insolvent;
- (e) any person who is mentally disordered or defective and has been so declared by a competent court or judicial officer or has been declared incapable of managing his own affairs.

**Chairman.**

6. (1) The members of an association shall annually elect a chairman from its members; provided that a chairman shall be eligible to be re-elected.

(2) The chairman shall preside at all meetings of the association at which he is present. If the chairman is absent from any meeting of the association the members present shall elect one of their number to act as chairman at that meeting, and the person so elected shall during the absence from that meeting of the chairman exercise all the functions and duties of the chairman.

(3) All questions arising at any meeting of the association shall be decided by a majority of the votes of the members present. In the event of any equality of votes the chairman or in his absence the acting chairman, shall have a casting vote in addition to his deliberative vote.

**Quorum.**

7. Every association shall decide what number of members shall constitute a quorum at its meetings; provided that such quorum shall not be less than three or more than five members.

**Offices of Members who become Disqualified to be declared Vacant.**

8. (1) Whenever a member of an association—

- (a) becomes disqualified as set out in section *five*; or
  - (b) absents himself from three consecutive ordinary meetings of the association without leave of the association; or
  - (c) receives any salary, fee or reward whatsoever, pecuniary or otherwise, in connection with his services as a member of such association;
- the chairman, or in his absence the acting chairman, shall as soon as possible after such disqualification or any fact referred to in paragraph (b) or (c), as the case may be, of this sub-section, shall have come to his knowledge declare at a meeting of the association that a vacancy has occurred and forthwith advise the member concerned of such declaration at such meeting if he is present thereat or by registered post if he is not so present. The chairman or acting chairman, as the case may be, shall also forthwith advise the Administrator that the office of such member has been declared vacant. The office of

such member shall become vacant as from the date on which the declaration is made, but if the declaration is set aside in terms of sub-section (4) of this section such member shall again assume office and shall be deemed not to have vacated his office.

(2) Any member whose office has in terms of sub-section (1) of this section been declared vacant may at any time within twenty-one days of the date of such declaration apply to the Administrator in writing to set aside the declaration. The grounds on which the setting aside of the declaration is applied for shall be fully set out in the application.

(3) The applicant shall at the same time as he submits his application to the Administrator furnish the chairman or acting chairman, whoever declared his office vacant, with a copy of the application. It shall be the duty of the chairman or acting chairman, as the case may be, on receipt of the copy of the application to advise the Administrator of his reasons for having declared the applicant's office vacant.

(4) The Administrator shall have the right to set aside the declaration after having taken into consideration the reasons furnished in terms of sub-section (3) of this section; provided that if the reasons of the chairman or acting chairman, as the case may be, are not in the hands of the Administrator within fourteen days of the date on which a copy of the application was received by the chairman or acting chairman the Administrator shall have the right to set aside the declaration at any time after the expiration of the said period of fourteen days.

#### **Resignation or Death of Members.**

9. Any member of an association may by writing under his hand addressed to the chairman of the association of which he is a member resign his office. The chairman or in his absence the acting chairman, shall at the first meeting held after the receipt of such resignation declare that a vacancy has occurred. In the event of the death of any member the chairman or in his absence the acting chairman shall at the first meeting of the association held after the occurrence of such death declare that a vacancy has occurred. The chairman or acting chairman, as the case may be, shall forthwith advise the Administrator that the office of such member has been declared vacant.

#### **Filling of Casual Vacancies.**

10. (1) Whenever the office of any member of an association has in terms of sub-section (1) of section *eight* or section *nine* been declared vacant the remaining members of the association shall recommend for appointment by the Administrator a person to fill such vacancy.

(2) Subject to the provisions of section *five* and sub-section (3) of this section the Administrator may in his discretion, on being advised in terms of sub-section (1) of section *eight* or section *nine* that a vacancy has occurred, appoint a successor, who may either be the person recommended as provided in sub-section (1) of this section, or some other person, to fill the vacancy.

(3) If the office of a member of any association has in terms of sub-section (1) of section *eight* been declared vacant such vacancy shall not be filled unless—

(a) a period of twenty-one days from the date on which the declaration was made has elapsed and the person whose office was declared vacant has not applied to the Administrator for the setting aside of the declaration; or

(b) the Administrator has, in the event of an application having been made under sub-section (2) of section *eight* signified his refusal to set aside the declaration.

#### **Period of Office of Members appointed to fill Vacancies.**

11. Every person appointed under section *ten* shall hold office for the remainder of the period for which his predecessor would have remained in office.

#### **Removal of Members of an Association.**

12. (1) Whenever the Administrator is satisfied that an association has failed or refused to perform any of the duties lawfully imposed upon it, or is improperly exercising or has improperly exercised its powers or duties or has unreasonably failed or refused to exercise any power lawfully conferred upon it or has done or intends to do any illegal or grossly irregular act, he may by Proclamation in the *Gazette* remove the members of the association from office.

(2) The Administrator may in such Proclamation or in any subsequent Proclamation appoint new members of the association. For the purpose of determining the period of office of such new members they shall be regarded



as members of the association the members of which have been removed as provided in sub-section (1) of this section. Nothing in this section contained shall prevent the Administrator from reappointing any of the members so removed.

#### **Disestablishment of an Association.**

13. Whenever in the opinion of the Administrator it is necessary or expedient that any association be disestablished he may do so by Proclamation in the *Gazette*.

#### **Members to remain in Office until new Association Constituted.**

14. If at the expiration of the period of office of the association otherwise than by dissolution in terms of sub-section (1) of section *twelve* a new association has not been constituted as provided by this Ordinance the outgoing members of such association shall continue to have full power and authority and they shall remain in office and continue to act as members until a new association has been constituted.

#### **Meetings of Associations.**

15. (1) Ordinary meetings of the association shall be held at such intervals as the association may from time to time determine.

(2) The chairman, or in his absence the secretary, referred to in section *seventeen* may at any time and shall at the request in writing of at least three members convene a special meeting of the association.

#### **Minutes of Meetings.**

16. Minutes of the proceedings of every meeting of the association shall be regularly kept and shall be submitted for confirmation at the next succeeding meeting, and if confirmed, signed by the person presiding thereat. The Director or any person appointed by him for the purpose shall at all reasonable times have access to the minutes.

#### **Appointment of Secretary.**

17. The principal or in his absence the vice-principal of a school in respect of which an association has been established shall be an *ex-officio* member and act as secretary of such association; provided that nothing in this section contained shall be construed as giving such *ex-officio* member the right to vote in respect of any proceedings of such association.

#### **Keeping of Records, Registers and Accounts.**

18. (1) An association shall—

(a) keep such records, registers and accounts as may be prescribed by regulation;

(b) prepare and transmit to the department such returns and reports as may from time to time be required by the department;

(c) transmit to the department at such times and in such form as may be prescribed by regulation statements of receipts and disbursements.

(2) The Director or any person appointed by him for the purpose shall at all reasonable times have access to the records, registers and accounts of any association for the purpose of inspection or audit.

#### **Functions of the Association.**

19. It shall be the function of the association to control, manage and generally to administer such funds and assets as it may from time to time receive, raise or acquire and to award loan bursaries for educational purposes to such pupils and on such conditions as may be prescribed by regulation: Provided that no bursary shall be awarded for higher education, as defined by Act No. 5 of 1922, as amended.

#### **Authentication and Signing of Documents.**

20. (1) Every order, notice or other document requiring authentication by the association shall be deemed to be sufficiently authenticated if signed by the chairman and secretary thereof.

(2) Every contract and all instruments and documents which the association is lawfully empowered to execute shall be deemed to have been duly executed by or on behalf of the association, if signed by the secretary and any one or more members authorised thereto by resolution of the association.

#### Grants-in-Aid.

21. The Administrator may, subject to such conditions as may be prescribed by regulation make grants-in-aid to any association not exceeding twenty shillings for every £1 raised or received by such association; provided that the total grant-in-aid to any one association shall not exceed £1,500.

#### Regulations.

22. The Administrator may from time to time make regulations not inconsistent with or repugnant to the provisions of this Ordinance—

(a) prescribing apart from the powers and duties of associations set out in this Ordinance, further powers and duties of associations;

(b) prescribing the manner in which the funds and assets of associations shall be controlled, managed and administered;

(c) prescribing the manner in which the funds and assets of associations shall be disposed of on the disestablishment of any association;

(d) prescribing rules for the arrangement and conduct of meetings of associations;

(e) generally in respect of all matters which he considers necessary or expedient to prescribe for the achievement of the purposes of this Ordinance.

#### Short Title.

23. This Ordinance may be cited as the Loan Bursary Association Ordinance, 1944, and shall come into operation on a date to be fixed by the Administrator by Proclamation in the *Gazette*.

No. 18 of 1944.]

[Assented to 16th October, 1944.]

#### AN ORDINANCE

To amend the Licensing of Bookmakers and Taxation Ordinance, 1925.

(Date of Operation 15th November, 1944.)

(English copy signed by His Excellency the Officer Administering the Government.)

BE IT ENACTED by the Provincial Council of Transvaal as follows:—

**Amendment of Section 6 (1) of Ordinance No. 26 of 1925, substituted by Section 1 of Ordinance No. 17 of 1940.**

1. Sub-section (1) of section six of the Licensing of Bookmakers and Taxation Ordinance, 1925, Ordinance No. 26 of 1925, as substituted by section one of Ordinance No. 17 of 1940, is hereby amended by the addition at the end of sub-paragraph (b) of paragraph B thereof of the following proviso:—

“Provided that for the purposes of this sub-paragraph the expression ‘every bookmaker’ shall include a partnership of bookmakers”.

#### Short Title.

2. This Ordinance may be cited as the Licensing of Bookmakers and Taxation Amendment Ordinance, 1944.

No. 19 of 1944.]

[Assented to 16th October, 1944.]

#### AN ORDINANCE

To amend the Local Government Ordinance, 1939.

(Date of Operation 22nd November, 1944.)

(English copy signed by His Excellency the Officer Administering the Government.)

BE IT ENACTED by the Provincial Council of Transvaal as follows:—

**Amendment of Section 28 of Ordinance No. 17 of 1939.**

1. Section twenty-eight of the Local Government Ordinance, No. 17 of 1939, as amended (hereinafter referred to as the principal ordinance) is hereby

amended by the substitution for sub-section (2) of the Afrikaans version of the following sub-section:—

“(2) Elke komitee moet aan die raad verslag oor sy verrigtings doen, maar vir sover die raad dit gelas is die goedkeuring van die raad tot die handelinge en verrigtings van die komitee nie nodig nie.”

**Amendment of Section 40 (2) of Ordinance No. 17 of 1939, as amended by Section 1 of Ordinance No. 12 of 1941.**

2. Sub-section (2) of section *forty* of the principal ordinance is hereby amended by the insertion after the word “capital” of the words “and such councillor or his spouse is not a director of such company”.

**Amendment of Section 50 of Ordinance No. 17 of 1939.**

3. Section *fifty* of the principal ordinance is hereby amended by the insertion in sub-section (1) after the word “Ordinance” in paragraph (c) thereof of the word and paragraph:—

“; and

(d) that in so far as the transfer of stands from the township owner is concerned, all endowment moneys payable by the township owner in terms of the provisions of section *twenty-seven* of the Townships and Town-planning Ordinance, 1931 (Ordinance No. 11 of 1931), or any amendment thereof.”

**Amendment of Section 52 of Ordinance No. 17 of 1939, as amended by Section 1 of Ordinance No. 19 of 1943.**

4. Section *fifty-two* of the principal ordinance is hereby amended by the substitution for the amount “£500,000” in paragraph (b) of sub-section (1) thereof of the amount “£100,000”.

**Amendment of Section 67 of Ordinance No. 17 of 1939 as substituted by Section 3 of Ordinance No. 11 of 1942.**

5. Section *sixty-seven* of the principal ordinance is hereby amended by the insertion in sub-paragraph (iii) of paragraph (b) of sub-section (3) thereof after the word “notice” of the words “a copy of the plan prepared under the provisions of sub-section (2) of this section and the reasons therefor”.

**Amendment of Section 79 of Ordinance No. 17 of 1939, as amended by Section 8 of Ordinance No. 12 of 1941, Section 5 of Ordinance No. 11 of 1942, and Section 3 of Ordinance No. 19 of 1943.**

6. Section *seventy-nine* of the principal ordinance is hereby amended—

(1) by the addition at the end of paragraph (a) of sub-section (2) of the following:—

“provided that if the council renders such services to any public hospital, as defined in the Public Hospitals Ordinance, 1928, the charges payable by such public hospital shall not exceed the lowest rate charged by the council to any consumer other than consumers to whom such services are rendered at a rate below the cost to the council of such services;”;

(2) by the insertion in sub-section (14) of the following paragraph (b), the existing paragraph (b) becoming paragraph (c):—

“(b) establish, erect, equip, maintain, regulate and carry on buildings, depots, or premises in conjunction with or apart from any market established under paragraph (a) of this sub-section for the sale by it of articles and produce by retail and may for such purpose purchase articles and produce upon any market or elsewhere. For the purposes of this paragraph the council may make such charges as it may decide;”.

**Amendment of Section 80 of Ordinance No. 17 of 1939, as amended by Section 9 of Ordinance No. 12 of 1941, Section 6 of Ordinance No. 11 of 1942, and Section 4 of Ordinance No. 19 of 1943.**

7. Section *eighty* of the principal ordinance is hereby amended—

(1) by the insertion in sub-section (23) thereof of the following paragraph (b), the existing paragraph (b) becoming paragraph (c):—

“(b) for inspecting, supervising, regulating and controlling flats, buildings and rooms let for lodging purposes and fixing the fee or duty to be

paid in respect of registration, inspection and supervision of any such business;”;

(2) by the insertion in sub-section (30) after the word “vermin” of the words “on any premises”;

(3) by the insertion in sub-section (30) after the word “measures” where it occurs for the second time of the words “and for fixing the charges payable by the owner of any premises on which the council had set traps or taken other measures to secure the prevention or destruction of rats or other vermin”;

(4) by the insertion in sub-section (79) after the word “vehicles” where it occurs for the first time of the words “or dogs”;

(5) by the insertion in sub-section (79) after the word “vehicle” where it occurs for the second time of the words “or dog”.

**Amendment of Section 81 of Ordinance No. 17 of 1939.**

8. Section *eighty-one* of the principal ordinance is hereby amended by the deletion in sub-section (1) thereof of all the words after the word “regulation” and the substitution therefor of the following words “provided that if the council supplies water to any hospital, as defined in the Public Hospitals Ordinance, 1928, the charges payable by such public hospital shall not exceed the lowest rate charged by the council to any consumer other than consumers to whom water is supplied at a rate below the cost to the council of supplying such water; provided further that before commencing to establish, acquire or construct such works the council shall obtain the consent of the Administrator;”.

**Amendment of Section 83 of Ordinance No. 17 of 1939, as amended by Section 10 of Ordinance No. 12 of 1941.**

9. Section *eighty-three* of the principal ordinance is hereby amended by the deletion in sub-section (1) thereof of all the words after the word “regulation” and the substitution therefor of the following words “provided that if the council supplies electricity to any public hospital, as defined in the Public Hospitals Ordinance, 1928, the charges payable by such public hospital shall not exceed the lowest rate charged by the council to any consumer other than consumers to whom electricity is supplied at a rate below the cost to the Council of supplying such electricity; provided further that before commencing to establish, acquire or construct such works the Council shall obtain the consent of the Administrator”.

**Insertion of New Section 118bis in Ordinance No. 17 of 1939.**

10. The following new section is hereby inserted in the principal ordinance after section *one hundred and eighteen*:—

**“Chairman’s Allowances.**

118bis. (1) Subject to the prior approval of the Administrator the council may vote to the chairman out of its revenue such sum as it may consider sufficient as an allowance for general purposes having regard to the circumstances. The amount of such allowance shall be fixed at the commencement of the chairman’s term of office, shall be payable monthly, and shall not be altered either by way of increase or decrease during the said term of office; and such allowance shall not be deemed to fall within the provisions of Chapter IV of this Ordinance. The expenditure of such allowance shall be accounted for to the finance committee but shall not be subject to any other audit.

(2) Subject to the prior approval of the Administrator the council may also grant as a personal allowance payable monthly to the chairman, an amount in the aggregate not exceeding one-third of the allowance fixed under sub-section (1) of this section. The said personal allowance shall not be deemed to fall within the provisions of Chapter IV of this Ordinance. The expenditure of such allowance shall not be subject to any audit, the chairman’s signature therefore being sufficient.

(3) Whenever the duties of the office of chairman are performed, for any continuous period not being less than one month, by the deputy-chairman under any of the circumstances mentioned in sub-section (1) of section *one hundred and eighteen* the allowances under this section shall be paid for such period to such deputy-chairman."

**Short Title.**

11. This Ordinance may be cited as the Local Government Amendment Ordinance, 1944.

**AN ORDINANCE**

**To amend the Peri-Urban Areas Health Board Ordinance, 1943.**

(Date of Operation 22nd November, 1944.)

(English copy signed by His Excellency the Officer Administering the Government.)

BE IT ENACTED by the Provincial Council of Transvaal as follows:—

**Amendment of Section 29 of Ordinance No. 20 of 1943.**

1. Section *twenty-nine* of the Peri-Urban Areas Health Board Ordinance, No. 20 of 1943 (hereinafter referred to as the principal ordinance) is hereby amended—

(1) by the deletion of paragraph (b) thereof and the substitution thereof of the following new paragraph:—

“(b) the board may at any time cause a valuation to be made of all the rateable property in any area in or portion of its area of jurisdiction and such valuation shall thereafter be made quinquennially and not triennially;”;

(2) by the addition thereto of the following paragraph (d):—

“(d) the board may subject to the approval of the Administrator, levy different rates in the different areas in or portions of its area of jurisdiction.”

**Amendment of Section 43 of Ordinance No. 20 of 1943.**

2. Section *forty-three* of the principal ordinance is hereby amended by the addition thereto of the following sub-section (3):—

“(3) Notwithstanding anything to the contrary in sub-section (2) of this section contained, any regulation or by-law relating to the finances of the board and which is disapproved of by resolution of the Provincial Council shall unless repealed, only cease to be of force and effect as from the end of the last day of the financial year succeeding that in which such resolution was taken”.

**Short Title.**

3. This Ordinance may be cited as the Peri-Urban Areas Health Board Amendment Ordinance, 1944.

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ORDINANCES of TRANSVAAL

1945

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No. 3 of 1945.]  
No. 4 of 1945.]

ORDINANCE.

No. 1 of 1945.—Additional Appropriation (1944-1945).

No. 2 of 1945.—Appropriation (Part 1945-1946).

No. 3 of 1945.]

[Assented to 30th April, 1945.]

AN ORDINANCE

To amend the Companies Tax Ordinance, 1933.

(Date of Operation 1st July, 1945.)

(English copy signed by His Excellency the Officer Administering the Government.)

BE IT ENACTED by the Provincial Council of Transvaal as follows:—

**Amendment of Section 3 of Ordinance No. 12 of 1933 as amended by Section 3 of Ordinance No. 13 of 1938 and Section 1 of Ordinance No. 13 of 1940.**

1. Section *three* of the Companies Tax Ordinance, 1933, as amended, is hereby amended by the substitution for the word "sevenpence" of the words "seven-and-a-half pence".

**Short Title.**

2. This Ordinance may be cited as the Companies Tax Amendment Ordinance, 1945, and shall come into operation on the first day of July, 1945, in respect of taxes payable for the year of assessment ended on the 30th June, 1945, and the subsequent years of assessment.

No. 4 of 1945.]

[Assented to 4th May, 1945.]

AN ORDINANCE

To amend the Personal and Income Taxes Ordinance, 1928, in certain respects.

(Date of Operation 1st July, 1945.)

(English copy signed by His Excellency the Officer Administering the Government.)

BE IT ENACTED by the Provincial Council of Transvaal as follows:—

**Amendment of Section 1 of Ordinance No. 10 of 1928 as amended by Section 2 of Ordinance No. 14 of 1938, and Section 1 of Ordinance No. 5 of 1939.**

1. Section *one* of the Personal and Income Taxes Ordinance, 1928, as amended (hereinafter referred to as the principal ordinance) is hereby amended—

(a) by the substitution in the definition "Income Tax payer" for the word "*forty-eight*" of the word "*sixty-nine*";

(b) by the deletion in the definition "Income" of the words and figure "sub-section (1) of";

(c) by the substitution in the definition "Income Tax Act" for the words and figures "1925 (Act No. 40 of 1925)" of the words and figures "1941 (Act No. 31 of 1941)".

**Amendment of Section 2 of Ordinance No. 10 of 1928, as amended by Section 1 of Ordinance No. 14 of 1933 and Section 3 of Ordinance No. 14 of 1938.**

2. Section *two* of the principal ordinance is hereby amended—

(a) by the substitution in paragraph (a) of sub-section (2) for the figures "15" of the figures "20";

(b) by the substitution in paragraph (b) of sub-section (2) for the figures "22½" of the figures "27½".

**Amendment of Section 5bis of Ordinance No. 10 of 1928, as inserted by Section 7 of Ordinance No. 14 of 1938.**

3. Section *five bis* of the principal ordinance is hereby amended by the substitution in sub-section (2) for the words and figures "*thirty-nine* of the Income Tax Act, 1925, or any amendment thereof" of the words "*fifty-eight* of the Income Tax Act".

**Amendment of Section 8 of Ordinance No. 10 of 1928, as amended by Section 3 of Ordinance No. 20 of 1930, Section 7 of Ordinance No. 14 of 1933, Section 1 of Ordinance No. 5 of 1937 and Section 8 of Ordinance No. 14 of 1938.**

4. Section *eight* of the principal ordinance is hereby amended—

(a) by the insertion in sub-section (1) after the word "All" of the word "married";

(b) by the substitution in sub-section (1) for the word "*forty-six*" of the word "*sixty-seven*";

(c) by the insertion of the following new paragraph (a) *bis* in sub-section (2) after paragraph (a):—

"(a) *bis*. Any unmarried female adult who satisfies the revenue officer that her income during the year of assessment amounted to less than £150";

(d) by the deletion in paragraph (c) of sub-section (2) of the word "male";

(e) by the deletion in sub-section (3) of the word "male";

(f) by the deletion in sub-section (5) of the word "male".

#### Short Title.

5. This Ordinance may be cited as the Personal and Income Taxes Amendment Ordinance, 1945, and shall come into operation on the first day of July, 1945, first taking effect in respect of the year of assessment ending the thirtieth day of June, 1945

No. 5 of 1945.]

[Assented to 10th July, 1945.]

#### AN ORDINANCE

**To consolidate and amend the Law relating to Education in respect of questions of Language.**

(Date of Operation 1st January, 1946.)

(English copy signed by His Excellency the Officer Administering the Government.)

BE IT ENACTED by the Provincial Council of Transvaal as follows:—

#### Repeal of Ordinance No. 5 of 1911, as amended by Ordinance No. 9 of 1934.

1. The Education Act (Language) Amendment Ordinance, 1911, as amended, shall be and is hereby repealed, together with any other provision of the Education Act, 1907, as amended, which is repugnant to or inconsistent with the provisions of this Ordinance.

#### Interpretation of Terms.

2. In this Ordinance unless inconsistent with the context—

"home language" means the language better known and understood by the pupil;

"language" shall be taken to refer to the English or to the Afrikaans language or to both languages, as the context requires, but to no other language;

"other language" means the language other than the home language;

"parent" means the father of a child and if there be no father or if at any material time the father is not available or for any other reason cannot act or make a decision in respect of such child, the mother of such child, and if the father and mother of a child are both dead or at any material time not available or for any other reason cannot act or make a decision in respect of such child, the person having the actual care and custody of such child;

"private school" means a school at which there are ten or more children who are by section *nineteen* of the Education Act, 1907 (Act No. 25 of 1907), as amended, required to attend school, but does not include any public school or any school under the control of the Union Education Department;

All other terms used in this Ordinance shall bear the same meaning as in the Education Act, 1907, as amended, and are to be interpreted in accordance with section *two* thereof.



**Teaching of Languages up to and including the Fifth Standard.**

3. (1) Every pupil in every standard up to and including the fifth standard of every public or private school shall be taught his home language and the teaching of the other language as a subject shall be commenced at such stage as the Director determines to be the earliest stage at which it is on educational grounds appropriate to do so.

(2) In teaching the other language all necessary steps (including the use of it as a supplementary medium of instruction) shall be taken to ensure that the standard of proficiency attained therein by the end of the fifth standard is such that it will be possible for the pupil thereafter to have such language as a medium of instruction.

**Teaching of Languages above the Fifth Standard.**

4. (1) Both languages shall be taught as examination subjects to every pupil of a public or private school in all standards above the fifth standard.

(1) The courses of instruction in the two languages shall from the beginning of 1946 be framed in such a way as to secure as far as possible one equal standard of proficiency in both languages and the examinations that are conducted at any stage of the secondary school course, shall year by year ensure such equality of standard as closely as possible.

**Medium of Instruction in Public and Private Schools up to and including Standard V.**

5. (1) The medium of instruction of every pupil in all standards of any public or private school up to and including the fifth standard shall be the home language of the pupil except in so far as the exigency of the provisions of sub-section (2) of section *three* requires the other language to be used as a supplementary medium of instruction.

(2) If in the carrying out of the provisions of sub-section (1) it be found that the medium of instruction of the majority of the pupils requires to be one language and that of the minority the other language, arrangements shall be made for the efficient instruction of that minority—

(a) by means of parallel classes if the existing organisation of the school permits;

(b) by means of parallel classes in every case in which the pupils forming the minority are not fewer than fifteen in not more than four consecutive standards;

(c) either by means of teachers qualified to instruct in both languages or by admission or transfer of pupils to a school which makes provision for the medium required.

**Medium of Instruction in Public and Private Schools in Standards above the Fifth Standard.**

6. (1) In respect of all the standards of any public or private school above the fifth standard both languages shall be used as media of instruction and the following provisions shall apply—

(a) that as from the coming into operation of this Ordinance the other language shall be taught in all standards exclusively through the medium of that language;

(b) as from the commencement of the year 1946 one additional subject shall be taught through the medium of the other language to every pupil in Standard VI and as from the commencement of the year 1947 one additional subject shall be taught through the medium of the other language to every pupil in Standard VII and so on to every pupil in each consecutive standard thereafter in each consecutive year thereafter;

(c) that as from the beginning of the year 1951 both languages shall be used on as nearly as possible an equal basis as media of instruction in every public and private school.

(2) The selection of subjects which in terms of sub-section (1) shall be taught through the medium of the other language shall be made by the Director.

**Determination of Difficulties in Applying certain Provisions of this Ordinance.**

7. (1) Subject to the provisions of sub-sections (2) and (3) the question as to which of the two languages shall be regarded as the home language of a pupil shall be determined by the principal teacher of a public or private

school; provided that where any parent is aggrieved at the decision of the principal teacher he shall be entitled within a period of thirty days of the date of such decision to appeal in writing to the inspector of education within whose area of jurisdiction the school is situated. Upon any such appeal having been made the inspector shall after due inquiry decide the matter. His decision shall be communicated in writing to the parent and the principal teacher.

(2) In any case in which owing to the pupil having an approximately equal knowledge of both languages the principal teacher is doubtful as to which of the two languages is to be considered the home language of the pupil he shall refer the question to the inspector of education within whose area of jurisdiction the school is situated. If after due enquiry the inspector is satisfied that the pupil has an approximately equal knowledge of both languages he shall call upon the parent to decide which language shall be regarded as the home language of the pupil. The decision of the parent when so called upon shall be given in writing and shall be final. If the inspector is not so satisfied he shall after having consulted the principal teacher and the parent give a decision in writing.

(3) If the parent is aggrieved at the decision of the inspector under subsection (1) or (2) he shall be entitled within a period of thirty days of the date of such decision to appeal in writing to the Director whose decision shall be final.

#### **Disputes or Difficulties in connection with Medium of Instruction in Public Schools.**

8. (1) If a dispute or difficulty arises in connection with the application to any public school of the provisions of this Ordinance the Director shall subject to any rights conferred by law on any board or governing, advisory or provisional governing body having supervision of the school have power to deal with the dispute or difficulty and it shall be the duty of the Director to see that the provisions of this Ordinance are carried out in such a way as to conduce as much as possible to the general efficiency of the school.

(2) In any case where the Director is convinced that a dispute or difficulty can be solved only by transferring a pupil to another school he shall have the right to do so.

#### **Inspections and Examinations.**

9. (1) In the holding of inspections and examinations the provisions relating to the medium of instruction set out in this Ordinance and the regulations shall be applied *mutatis mutandis*; provided that, except in an examination on either language a candidate may choose either medium in giving his answers in examinations.

(2) The Director or any inspector of education may at any time visit any private school in order to make sure that the provisions of this Ordinance are carried out.

#### **Special arrangements where Home Language of Pupil is neither English nor Afrikaans or in Exceptional Cases.**

10. Whenever the home language of a pupil is neither English nor Afrikaans or where the pupil is temporarily resident in the Union of South Africa or in other exceptional cases the Director shall make such provision as may be necessary to satisfy the educational requirements of the case.

#### **Training and Certification of Teachers as regards Language.**

11. The following conditions as regards languages shall apply in respect of the training and certification of teachers:—

(a) Both languages shall be included in the course of training for the teachers' general certificate.

(b) Suitable steps, including the use of both official languages as media of instruction and such other measures as the Administrator may prescribe, shall be taken as will ensure that each candidate shall obtain the desired degree of proficiency in the use of both languages as media of instruction.

(c) On the certificate issued to a student who has completed a teachers' training course shall be indicated clearly whether he has passed a test of proficiency as prescribed by the Director to use both languages as media of instruction.

**Salary Increments to be withheld in certain Cases.**

12. After the year 1948 the annual salary increments shall be withheld from a teacher, appointed at a public school under the Department in a temporary or permanent post for the first time after that date, until such time as he has passed in the test of proficiency referred to in paragraph (c) of section *eleven* or has provided proof from an authority recognised by the Department that he has attained the required degree of proficiency in the use of both languages as media of instruction.

**Appointment of Teachers from Outside the Transvaal and their Conditions of Service.**

13. If in the Administrator's opinion the exigencies of education demand it he may authorise the appointment of a teacher trained outside the Transvaal and notwithstanding the provisions of section *twelve* may make such appointment subject to such terms and conditions as he may deem fit.

**Safeguarding of Rights of Teachers in the Service before the 1st January, 1949.**

14. (1) No English-speaking teacher who has been continuously in the service of the Department since the first day of January, 1912, shall be penalised on account of a lack of knowledge of Afrikaans and no Afrikaans-speaking teacher who has been so serving shall be penalised on account of a lack of knowledge of English.

(2) No teacher who has entered into the service of the Department before the first of January, 1949, shall be penalised because of his inability to use both languages as media of instruction.

**Offences and Penalties.**

15. (1) Any person in the service of the Department who contravenes or fails to comply with the provisions of this Ordinance shall be guilty of an offence and shall be dealt with as is provided in the disciplinary regulations under which he serves.

(2) Any person not in the service of the Department, who contravenes or fails to comply with the provisions of this Ordinance shall be guilty of an offence and liable on conviction to a fine not exceeding £50, and in default of payment to imprisonment with or without hard labour for a period not exceeding three months, or to such imprisonment without the option of a fine.

**Responsibility of Principal Teacher for Unlawful Acts of Assistant Teachers.**

16. (1) Whenever any assistant teacher in any public or private school does or omits to do anything which it would be an offence under this Ordinance for the principal teacher to do or omit to do, such principal teacher shall be deemed himself to have done or omitted to do such thing and be liable to be dealt with as is provided in section *fifteen* unless he proves that—

(i) in doing or omitting to do such thing such assistant teacher was acting without his connivance or permission; and

(ii) all reasonable steps were taken by him to prevent any act or omission of the kind in question;

Provided that the fact that such principal teacher issued instructions forbidding any act or omission of the kind in question, shall not, of itself, be accepted as sufficient proof that he took all reasonable steps to prevent the act or omission.

(2) The liability imposed upon any principal teacher in terms of sub-section (1) hereof shall not be deemed to relieve any assistant teacher from any liability which he may have incurred in respect of any offence committed by him and in respect of such offence both he and the principal teacher may be dealt with as is provided in section *fifteen*.

**Regulations.**

17. The Administrator may from time to time by publication in the *Gazette* make regulations not inconsistent with this Ordinance for the carrying out and giving effect to the provisions thereof.

**Short Title and Date of Operation of Ordinance.**

18. This Ordinance may be cited for all purposes as the Education Act (Language) Amendment Ordinance, 1945, shall be read as one with the Education Act, 1907, or any amendment thereof, and shall commence and come into operation on a date to be fixed by the Administrator by Proclamation in the *Provincial Gazette*.\*

\*Date of operation 1st January, 1946.

No. 6 of 1945.]

[Assented to 12th July, 1945.]

**AN ORDINANCE****To provide for the postponement of School Board Elections and for the extension of the periods of office of Members of School Boards.***(Date of Operation 8th August, 1945.)**(Afrikaans copy signed by His Excellency the Officer Administering the Government.)*

BE IT ENACTED by the Provincial Council of Transvaal as follows:—

**Definition.**

1. In this Ordinance "Administrator" means the Administrator of the Province of Transvaal acting on the advice and with the consent of the Executive Committee of the said Province.

**Postponement of School Board Elections and Extension of Periods of Office of Members of School Boards.**

2. Notwithstanding anything to the contrary in any law contained—

(a) the school board elections which were postponed by paragraph (a) of section two of the School Boards Elections Postponement Ordinance, 1944 (Ordinance No. 12 of 1944), are hereby further postponed for a period to be determined by the Administrator by proclamation in the *Provincial Gazette*; provided that such period shall not exceed twelve months;

(b) the periods of office of members of school boards who hold office as such on the thirtieth day of June, 1945, are hereby extended for the period determined by the Administrator, in terms of paragraph (a) of this section; provided that if any member becomes disqualified as set out in section forty of the Education Act, 1907 (Act No. 25 of 1907, Transvaal), or dies or resigns his office, his period of office shall terminate on the date on which he becomes disqualified as aforesaid or on which he dies or resigns his office.

**Short Title.**

3. This Ordinance may be cited as the School Boards Elections Postponement Ordinance, 1945.

No. 7 of 1945.—Appropriation (1945-1946).

No. 8 of 1945.]

[Assented to 25th September, 1945.]

**AN ORDINANCE****To amend the Auction Sales Tax Ordinance, 1923.***(Date of Operation 17th October, 1945.)**(English copy signed by His Excellency the Officer Administering the Government.)*

BE IT ENACTED by the Provincial Council of Transvaal as follows:—

**Amendment of Section 1 of Ordinance No. 9 of 1923.**

1. Section one of the Auction Sales Tax Ordinance, 1923, Ordinance No. 9 of 1923, as amended (hereinafter referred to as the principal ordinance) is hereby amended by the deletion of the words "or deemed to be by public auction".

**Amendment of Section 2 of Ordinance No. 9 of 1923.**

2. Section two of the principal ordinance is hereby amended—

(1) by the deletion in the definition of "Auctioneer" of all the words after the words "any sale by public auction";

(2) by the insertion of the following definition after the definition of "Auctioneer"—

"Local Authority" shall mean and include a city or town council, village council, health committee or health board duly constituted under the laws relating to such councils, committees or boards."

**Amendment of Section 3 of Ordinance No. 9 of 1923.**

3. Section *three* of the principal ordinance is hereby amended—

- (1) by the deletion of the words "or other agent";
- (2) by the substitution for the words "In respect of sales of agricultural and pastoral produce (including meat)" of the words "In respect of sales of agricultural, pastoral, horticultural, viticultural, floricultural and other like produce (including meat)".

**Repeal of Section 4 of Ordinance No. 9 of 1923.**

4. Section *four* of the principal ordinance is hereby repealed.

**Amendment of Section 8 of Ordinance No. 9 of 1923.**

5. Section *eight* of the principal ordinance is hereby amended by the addition of the following proviso at the end thereof—

"provided that no local authority shall be required to furnish or deposit such security in respect of sales conducted by it."

**Amendment of Section 10 of Ordinance No. 9 of 1923, as amended by Section 1 of Ordinance No. 11 of 1924.**

6. Section *ten* of the principal ordinance is hereby amended by the deletion of paragraph (c) thereof.

**Short Title.**

7. This Ordinance may be cited as the Auction Sales Tax Amendment Ordinance, 1945.

No. 9 of 1945.]

[Assented to 25th September, 1945.]

**AN ORDINANCE**

**To amend the Roads Ordinance, 1933.**

*(Date of Operation 17th October, 1945.)*

*(Afrikaans copy signed by His Excellency the Officer Administering the Government.)*

BE IT ENACTED by the Provincial Council of Transvaal as follows:—

**Amendment of Section 2 of Ordinance No. 9 of 1933, as amended by Section 1 of Ordinance No. 11 of 1940.**

1. Section *two* of the Roads Ordinance, 1933, as amended, is hereby amended—

- (1) by the addition at the end of the definition of "construct" "construction" of the words "and further means and includes any alteration, deviation, widening or improvement of such road";
- (b) by the deletion in the definition of "maintain" "maintenance" of the words "and further means and includes any reconstruction, alteration, deviation, widening or improvement of such road";

**Short Title.**

2. This Ordinance may be cited as the Roads Amendment Ordinance, 1945.

No. 10 of 1945.]

[Assented to 19th October, 1945.]

**AN ORDINANCE**

**To amend the Mineral Baths (Control and Management) Ordinance, 1933.**

*(Date of Operation 7th November, 1945.)*

*(Afrikaans copy signed by His Excellency the Officer Administering the Government.)*

BE IT ENACTED by the Provincial Council of Transvaal as follows:—

**Amendment of Section 18 of Ordinance No. 10 of 1933.**

1. Section *eighteen* of the Mineral Baths (Control and Management) Ordinance, 1933, is hereby amended by the deletion of sub-sections (21) and

(23) and the substitution therefor of the following new sub-sections (21) and (22), the existing sub-section (22) becoming sub-section (23):—

“(21) subject to the approval of the Administrator appoint local committees of management and delegate to such committees such powers, functions, and duties (including any or all of the powers and duties assigned to the board by Proclamation under section *twenty-six*) as may be prescribed by regulation;

(22) with the consent of the Administrator pay from its revenue to members of the board and members of local committees such fees and allowances as it may determine;”.

**Short Title.**

2. This Ordinance may be cited as the Mineral Baths (Control and Management) Amendment Ordinance, 1945.

No. 11 of 1945.]

[Assented to 19th October, 1945.

**AN ORDINANCE**

**To amend the Local Government Superannuation Ordinance, 1930.**

*(Date of Operation 7th November, 1945.)*

*(English copy signed by His Excellency the Officer Administering the Government.)*

BE IT ENACTED by the Provincial Council of Transvaal as follows:—

**Amendment of Section 38 of Ordinance No. 16 of 1930, as amended by Section 17 of Ordinance No. 10 of 1937 and Section 8 of Ordinance No. 1 of 1943.**

1. Section *thirty-eight* of the Local Government Superannuation Ordinance, 1930, as amended, is hereby amended by the substitution for sub-section (4) of the following sub-section:—

“(4) Subject to the approval of the Administrator under the hand of the Provincial Secretary or a member of the Public Service delegated for this purpose the committee may, for the purposes of this Ordinance, obtain bank overdraft facilities or may borrow by way of short term loans to the extent of the previous year's income of the fund, from any of the councils associated with the fund.”

**Short Title.**

2. This Ordinance may be cited as the Local Government Superannuation Amendment Ordinance, 1945.

No. 12 of 1945.]

[Assented to 19th October, 1945.

**AN ORDINANCE**

**To amend the Wheel Tax Ordinance, 1940.**

*(Date of Operation 7th November, 1945.)*

*(Afrikaans copy signed by His Excellency the Officer Administering the Government.)*

BE IT ENACTED by the Provincial Council of Transvaal as follows:—

**Amendment of Section 1 of Ordinance No. 1 of 1941, as amended by Section 1 of Ordinance No. 3 of 1942.**

1. Section *one* of the Wheel Tax Ordinance, 1940, Ordinance No. 1 of 1941, as amended, is hereby amended by the substitution in the definition of “vehicle” for the words “Provided that a water-cart” of the words “Provided that a water-cart which is not used for the purpose of selling water”.

**Short Title.**

2. This Ordinance may be cited as the Wheel Tax Amendment Ordinance, 1945.

**AN ORDINANCE****To amend the Municipal Elections Ordinance, 1927.***(Date of Operation 7th November, 1945.)**(English copy signed by His Excellency the Officer Administering the Government.)*

BE IT ENACTED by the Provincial Council of Transvaal as follows:—

**Amendment of Section 15 of Ordinance No. 4 of 1927, as amended by Section 3 of Ordinance No. 9 of 1937, Section 3 of Ordinance No. 9 of 1943 and Section 11 of Ordinance No. 18 of 1943.**1. Section *fifteen* of the Municipal Elections Ordinance, 1927, as amended (hereinafter referred to as the principal ordinance), is hereby amended—

(1) by the substitution in sub-section (4) for the word "July", where it occurs for the first time, of the word "June";

(2) by the substitution in sub-section (4) for the words "months of June and July" of the words "month of April";

(3) by the substitution in sub-section (4) for the word "July" at the end thereof, of the word "June";

(4) by the substitution in sub-section (6) for the word "August" of the word "July".

**Amendment of Section 19 of Ordinance No. 4 of 1927.**2. Section *nineteen* of the principal ordinance is hereby amended—

(1) by the substitution in paragraph (ii) of sub-section (1) for the word "August" of the word "July";

(2) by the insertion in paragraph (ii) of sub-section (1) at the end thereof after the word "held" of the words "provided further that notwithstanding anything to the contrary in this Ordinance contained, no person enrolled as a voter shall vote at any by-election held within a period of ninety days from the date on which he was so enrolled".

**Substitution of Section 43 of Ordinance No. 4 of 1927.**3. The following section is hereby substituted for section *forty-three* of the principal ordinance:—**" Voters incapacitated by blindness or other physical cause.**

43. (1) Any presiding officer on the application of any voter who is unable to read or who is incapacitated by blindness or other physical cause from voting in manner prescribed by this Ordinance, shall before such agents of the candidates as may be present cause the vote or votes of such voter to be marked on a ballot paper or papers in manner directed by such voter and the ballot paper or papers to be placed in the ballot box.

(2) The presiding officer, on the application in person of any voter who is incapacitated by blindness from voting in the manner prescribed by the other provisions of this Ordinance, who has not applied to have his vote recorded by the presiding officer in terms of sub-section (1), and who is accompanied by another person, may, if he is satisfied by a declaration on oath (which oath the presiding officer is hereby empowered to administer) made before the presiding officer by the person accompanying the blind voter that he or she is the father, mother, brother, sister, husband, wife, son, daughter or friend of the voter and has attained the age of twenty-one years, permit the blind voter to vote with the assistance of the person accompanying him, and upon such permission being granted, anything which is by this Ordinance required to be done to or by the said voter in connection with the giving of his vote may be done to or with the assistance of the person accompanying him.

(3) The name and number on the voters' roll of every voter whose vote is recorded in terms of this section and the reason why it is so recorded shall be entered on a list in this Ordinance called the "list of votes marked by the presiding officer or companions of voters".

**Amendment of Section 45 of Ordinance No. 4 of 1927.**

4. Section *forty-five* of the principal ordinance is hereby amended by the insertion in paragraph (5) thereof, after the words "as presiding officer" of the words "or marked by companions of voters".

**Short Title.**

5. This Ordinance may be cited as the Municipal Elections Amendment Ordinance, 1945.

No. 14 of 1945.]

[Assented to 19th October, 1945.

**AN ORDINANCE**

**To amend the Motor Vehicle Ordinance, 1931.**

(Date of Operation 7th November, 1945.)

(English copy signed by His Excellency the Officer Administering the Government.)

BE IT ENACTED by the Provincial Council of Transvaal as follows:—

**Amendment of Section 4 of Ordinance No. 17 of 1931, as substituted by Section 4 of Ordinance No. 3 of 1943.**

1. Section *four* of the Motor Vehicle Ordinance, 1931, as amended (hereinafter referred to as the principal ordinance), is hereby amended by the addition after the word "current" at the end of sub-paragraph (ii) of paragraph (c) of sub-section (5) thereof, of the words—

"or where such exemption is issued to a person referred to in section *four bis*, during the whole period covered by such exemption and should the registration have been cancelled before such exemption was obtained a new registration certificate shall be issued free of charge to such person".

**Amendment of Section 53 of Ordinance No. 17 of 1931, as amended by section 21 of Ordinance No. 19 of 1933, Section 16 of Ordinance No. 22 of 1940 and section 7 of Ordinance No. 12 of 1942.**

2. Section *fifty-three* of the principal ordinance is hereby amended by the addition after the word "devices" at the end of paragraph (5) thereof, of the words—

"and for enabling local authorities to prescribe by by-law the conditions governing the display of such special marks, tokens or devices and restricting the display thereof, in such manner as the local authority may deem fit."

**Short Title.**

3. This Ordinance may be cited as the Motor Vehicle Amendment Ordinance, 1945.

No. 15 of 1945.]

[Assented to 19th October, 1945.

**AN ORDINANCE**

**To amend the Transvaal Hospital and School Board Officials' Pensions Ordinance, 1927, in certain respects.**

(Date of Operation 7th November, 1945.)

(English copy signed by His Excellency the Officer Administering the Government.)

BE IT ENACTED by the Provincial Council of Transvaal as follows:—

**Amendment of Section 3 of Ordinance No. 14 of 1927, as amended by Section 3 of Ordinance No. 8 of 1929, Section 3 of Ordinance No. 4 of 1934 and Section 3 of Ordinance No. 9 of 1939.**



1. Section *three* of the Transvaal Hospital and School Board Officials' Pensions Ordinance, 1927, as amended (hereinafter referred to as the principal ordinance), is hereby amended—

(a) by the substitution in sub-section (5) for the words and figures " June, 1939 " and " July, 1939 " of the words and figures " September, 1945 " and " October, 1945 ", respectively;

(b) by the substitution in sub-section (5) for paragraphs (a) and (b) of the following new paragraphs (a) and (b):—

" (a) In respect of male officers or persons:—

<i>Age last birthday at commencement of pensionable service.</i>	<i>Per cent. of pensionable emoluments.</i>
Under 30 years	6·0
30 years	6·1
31 years	6·2
32 years	6·3
33 years	6·4
34 years	6·5
35 years	6·6
36 years	6·7
37 years	6·8
38 years	6·9
39 years	7·0
40 years	7·1
41 years	7·2
42 years	7·3
43 years	7·4
44 years	7·5
45 years	7·6
46 years	7·7
47 years	7·8
48 years	7·9
49 years	8·0

(b) In respect of female officers or persons:—

<i>Age last birthday at commencement of pensionable service.</i>	<i>Per cent. of pensionable emoluments.</i>
Under 30 years	7·75
30 years	7·90
31 years	8·05
32 years	8·20
33 years	8·35
34 years	8·50
35 years	8·70
36 years	8·90
37 years	9·10
38 years	9·30
39 years	9·50
40 years	9·70
41 years	9·90
42 years	10·10
43 years	10·30
44 years	10·50 "

**Amendment of Section 7 of Ordinance No. 14 of 1927, as amended by Section 7 of Ordinance No. 8 of 1929, Section 6 of Ordinance No. 4 of 1934 and Section 2 of Ordinance No. 9 of 1939.**

2. Section seven of the principal ordinance is hereby amended by the substitution for the words and figures " June, 1939 " and " July, 1939 " of the words and figures " September, 1945 " and " October, 1945 ", respectively.

**Short Title.**

3. This Ordinance may be cited as the Transvaal Hospital and School Board Officials' Pensions Amendment Ordinance, 1945, and shall come into operation on the 1st day of October, 1945.

No. 16 of 1945.]

[Assented to 26th October, 1945.]

## AN ORDINANCE

To make special provision for the re-admission to the service of the Transvaal Education Department of officers and teachers who resigned from or otherwise relinquished their employment under the Transvaal Education Department for the purpose of rendering military or other war service during the present war; for the appointment to the teaching service of the Transvaal Education Department of persons who have rendered military or other war service, and for matters incidental to the re-admission or appointment of such persons.

(Date of Operation 1st July, 1945.)

(Afrikaans copy signed by His Excellency the Officer Administering the Government.)

BE IT ENACTED by the Provincial Council of Transvaal as follows:—

## Definitions.

1. (1) In this Ordinance, unless inconsistent with the context—

“Administrator” shall mean the officer appointed under sub-section (1) of section *sixty-eight* of the South Africa Act, 1909, or any amendment thereof, acting on the advice and with the consent of the Executive Committee of the Province;

“Department” shall mean the Transvaal Education Department;

“military service” means—

(a) whole-time service during the war with any force or service established by or under—

(i) the South Africa Defence Act, 1912 (Act No. 13 of 1912), as amended; or

(ii) any proclamation or regulation validated by section *two* of the War Measures Act, 1940 (Act No. 13 of 1940); or

(iii) any regulation made under section *one bis* of the latter Act, as amended; or

(b) whole-time service during the war with the land, naval or air forces of any ally of the Union; or

(c) whole-time service during the war in the mercantile marine of the Union or of any ally of the Union;

“officer” means a person who is or was employed on the regular teaching staff of the Transvaal Education Department;

“pensionable service” means service which is pensionable service in terms of the provisions of the Transvaal Teachers’ Pensions Ordinance, 1916 (Ordinance No. 5 of 1916), as amended;

“pension fund” means the Transvaal Teachers’ Pension Fund established under the Transvaal Teachers’ Pensions Ordinance, 1916 (Ordinance No. 5 of 1916), as amended;

“pension ordinance” means the Transvaal Teachers’ Pensions Ordinance, 1916 (Ordinance No. 5 of 1916);

“resignation” includes desertion and any other circumstances under which an officer or teacher without permission vacated his office or post or relinquished his employment under the Transvaal Education Department for the purpose of rendering military service, and “resign” has a corresponding meaning;

“teacher” means a person other than an officer who is or was employed in the teaching service of the Transvaal Education Department;

“the war” means the period from and including the sixth day of September, 1939, to the date which the Governor-General declares by proclamation to be the date of termination of the war;

“whole-time service”, in relation to military service, includes the period represented by any cash payment in lieu of leave made to the person concerned on his discharge from military service, but does not include any part of a continuous period of more than twenty-one days during which the person concerned was granted leave of absence without pay or was unlawfully absent from duty or, in the case of any person appointed or otherwise employed in terms of section *three*, any part of a continuous

period of more than twenty-one days during which such person was in custody, under detention in barracks, or undergoing punishment entailing, in each case, forfeiture of military pay.

(2) Any period of whole-time service by any person with any force or service referred to in paragraphs (a) and (b) of the definition of "military service" in sub-section (1) (other than the South African Permanent Force) which extends beyond the date declared by the Governor-General to be the date of termination of the war shall if it commenced before the said date be regarded as military service for the purposes of this Ordinance.

**Re-admission to Employment of Officers and Teachers who Resigned for the purpose of rendering Military Service.**

2. (1) Notwithstanding the provisions of any other law, an officer or teacher who prior to the first day of April, 1945—

(a) resigned his office, post or employment for the purpose of rendering military service, and

(b) within a reasonable period after his resignation actually enlisted and entered military service, or was, on presenting himself for military service, rejected on medical ground, may be re-admitted to the office, post or employment which he so resigned or to any other office, post or employment for which he is suitable in the opinion of the Director of Education of the Transvaal, if he makes written application to the Department, within six months after the date of—

(i) his discharge from military service, or

(ii) his rejection for military service, or

(iii) the commencement of this Ordinance, whichever may be the later; provided that the scale of salary or wages attaching to the office, post or employment to which he is so readmitted shall not be lower than that which attached to the office, post or employment from which he so resigned.

(2) Notwithstanding the provisions of any other law, but subject to the succeeding provisions of this section, an officer or teacher who is re-admitted to the service of the department in terms of sub-section (1) of this section shall on being appointed to the regular teaching staff of the Department be entitled to elect, in writing, within one month from the date upon which he is called upon by the Department to do so, to have both—

(a) the period of continuous service completed by him immediately prior to the date of his resignation, and

(b) so much of the period between the date of his resignation and the date of his re-admission as may be determined by the Administrator, but not being less in the case of an officer who has rendered military service, than the period or periods of such military service, included in his pensionable service subject to such terms and conditions as may be approved by the Administrator.

(3) Without prejudice to the generality of the provisions of sub-section (2) of this section, the terms and conditions therein referred to may include conditions—

(a) as to the refund, by the officer concerned, in instalments or otherwise, of any monetary benefit which may have been paid to him, on his resignation, from the pension fund;

(b) as to the payment from the Provincial Revenue Fund, and by the officer concerned, in equal or unequal shares, or from the Provincial Revenue Fund alone—

(1) of contributions to the pension fund, in respect of any period which is included in the pensionable service of such officer in terms of sub-section (2) of this section,

(i) of interest on such contributions or on such monetary benefit, and

(ii) of any other moneys which may be necessary to compensate or to secure the pension fund for or against any loss arising out of the resignation and re-admission of such officer or teacher.

(4) Any period between the date of his resignation and the date of his re-admission which is not included in an officer's or teacher's pensionable service, under sub-section (2) of this section shall be deemed not to interrupt the continuity of his service for pension purposes.

(5) The provisions of this section shall not apply in respect of an officer or teacher who took up civil employment other than employment under the Department after the commencement of this Ordinance, unless the Administrator otherwise directs.

#### **New Appointments to the Teaching Service.**

3. (1) A person (other than a person referred to in section *two*) who is qualified for appointment to the teaching service and has rendered military service and who desires to be appointed to the service of the Department, shall, in order that he may obtain the benefits provided by this Ordinance, register his application for such appointment or employment with the Department in the manner prescribed by regulation, within six months after the date of commencement of this Ordinance or the date of the applicant's discharge from military service, whichever is the later, and in the case of a person who becomes qualified after his discharge from military service, within six months after becoming so qualified.

(2) (a) If a person referred to in sub-section (1) of this section, who has registered his application for employment in terms of that sub-section, is eligible for appointment to an office or post under the Department and is so appointed or employed, he may with the approval of the Administrator, be granted commencing remuneration in excess of the minimum of the scale of salary attaching to the post or employment in question.

(b) In determining the commencing remuneration in terms of paragraph (a) of this sub-section the Administrator shall have regard to the duration of the military service of such person.

(3) If a person referred to in sub-section (1) of this section is, by reason of the operation of any law, ineligible for appointment by the Department, the Administrator may in his discretion, suspend, relax or waive any or all of the requirements of such law relating to health in order to permit of the appointment of such person; provided the Administrator is satisfied that the general health and physical condition of such person render him capable of performing efficiently the duties attaching to the post to which it is proposed to appoint him.

(4) The provisions of sub-section (2) of this section shall apply in respect of a person appointed in terms of sub-section (3) of this section; provided that any such appointment may be made subject to compliance by the person concerned, within a period to be specified by the Administrator with such conditions as may be laid down by the Administrator.

(5) A person who is appointed to a post under the Department in terms of sub-section (2) or (3) of this section shall on becoming an officer be entitled to elect, in writing, within one month from the date upon which he is called upon by the Department to do so, to have the period or periods of his military service, included in his pensionable service subject to such terms and conditions as may be approved by the Administrator, and the provisions of sub-section (3) of section *two* shall *mutatis mutandis* and so far as they are applicable, apply with regard to conditions approved by the Administrator under this sub-section.

(6) If a person has elected, in terms of sub-section (5) of this section, to have the period or periods of his military service included in his pensionable service, the continuity of his service for pension purposes shall be deemed not to be interrupted by any period between the date of his first enlistment for military service and the date of his appointment or employment under the Department which does not count as military service.

(7) No person who is not a Union National at the expiration of a period of six months after the date of commencement of this Ordinance or the date of the applicant's discharge from military service, whichever is the later, shall be appointed or employed in terms of sub-section (2) or (3) of this section.

#### **Advances to Pension Fund from Revenue.**

4. (1) Whenever a person is re-admitted, appointed or employed under this Ordinance, there may be advanced to the pension fund out of the Provincial Revenue Fund a sum not exceeding the total amount of any contributions or other moneys which, in terms of any conditions approved by the Administrator, under the provisions of this Ordinance, are payable by such person to the fund, and the sum so advanced shall be recovered by deduction from that person's salary in such instalments as the Administrator shall direct.

(2) If the employment of any such person is terminated for any reason whatever before the total amount to be so paid by him to the pension fund, or to be recovered from him in terms of sub-section (1) of this section, has been fully paid or recovered, the amount still unpaid shall be deducted from any benefit payable under the pension ordinance.

**Military Service to Count as Service for Purposes of Salary Increments.**

5. (1) Notwithstanding anything to the contrary in any other law the period or periods of military service of a person who has rendered military service and who is re-admitted to the service of the Department in terms of sub-section (1) of section *two*, shall, together with not more than thirty days prior to his first enlistment for and thirty days subsequent to his final discharge from military service, count as service for the purpose of increments in his salary.

(2) The provisions of sub-section (1) of this section shall have effect as from the date upon which such person became or becomes eligible for the payment of such salary.

**Extension of Periods fixed by or under this Ordinance.**

6. Any period fixed by or under this Ordinance for the lodging of any application for re-admission, appointment or employment, or for the making of any election, or for the fulfilment of any condition laid down under sub-section (4) of section *three* may, at the discretion of the Administrator be extended if in his opinion the circumstances are exceptional by such period as may appear to him to be reasonable; provided that no such extension shall be effective beyond the date fixed for the expiry of this Ordinance.

**Certain Pension contributions paid by Province to be regarded as Paid by Officer in respect of whom they were Paid.**

7. If, in terms of any conditions approved by the Administrator under sub-section (2) of section *two* or sub-section (5) of section *three*, the Province is required to pay, in respect of any period which under any of those sub-sections has been included in an officer's pensionable service in addition to its own share, also that officer's share of contributions payable, in respect of any such period to the pension fund, or that officer's share of any interest payable in respect of such contributions, any payment so made by the Province, shall, in so far as it represents that officer's share of the said contributions and the said interest (if any), be regarded for the purposes of the pension ordinance as having been made by such officer himself; provided that if such officer retires or is retired or discharged in circumstances mentioned in section *twelve* or *thirteen* of the Transvaal Teachers' Pensions Ordinance, 1916 (Ordinance No. 5 of 1916), and any amendment thereof, there shall be deducted from any benefit payable to him under the said Ordinance, and repaid to the Provincial Revenue Fund an amount equal to the amount which in terms of this section is regarded as having been paid by such officer himself.

**Regulations.**

8. The Administrator may, from time to time, make regulations generally, not inconsistent with or repugnant to the provisions of this Ordinance, in respect of all matters which he considers necessary or expedient to prescribe for the achievement of the purposes of this Ordinance.

**Retrospective Application of this Ordinance in respect of Certain Persons.**

9. A person who has rendered military service and has been re-admitted, or appointed or employed prior to the commencement of this Ordinance, may, with effect from the date on which he was so re-admitted, appointed or employed, be dealt with in such manner as he might have been dealt with had this Ordinance been in force at the date when he was re-admitted, appointed or employed; provided that this section shall not apply to a person, who, subsequent to such re-admission, appointment or employment, voluntarily retired or was discharged from employment under the Department.

**Duration of Ordinance.**

10. (1) This Ordinance shall expire on a date to be fixed by the Administrator by proclamation in the *Provincial Gazette*, which date shall be not later than five years after the date which the Governor-General has by proclamation declared to be the date of termination of the war; provided

that the said period of five years may from time to time be extended by resolution of the Provincial Council for any further period specified in the resolution.

(2) The expiry of this Ordinance shall not affect the operation thereof as regards previous acts or omissions.

**Date of Commencement of this Ordinance.**

11. Subject to the provisions of section *nine* this Ordinance shall be deemed to have come into operation on the first day of July, 1945.

**Short Title.**

12. This Ordinance may be cited as the Teachers' (Military Service) Ordinance, 1945.

No. 17 of 1945.]

[Assented to 26th October, 1945.]

**AN ORDINANCE**

**To amend the Transvaal Teachers' Pensions Amendment Ordinance, 1918, and the Transvaal Teachers' Pensions Amendment Ordinance, 1927.**

(Date of Operation 7th November, 1945.)

(English copy signed by His Excellency the Officer Administering the Government.)

BE IT ENACTED by the Provincial Council of Transvaal as follows:—

**Repeal of Section 20 of Ordinance No. 15 of 1918, as amended by section 16 of Ordinance No. 17 of 1927, and substitution of New Section.**

1. Section *twenty* of the Transvaal Teachers' Pensions Amendment Ordinance, 1918, as amended, is hereby repealed and the following section substituted therefor:—

**“ Providing for Reciprocity in respect of the Recognition of the Service of Teachers for Pension purposes.**

20. (1) If an officer resigns from the service of the Department before reaching the prescribed retiring age and is appointed to and assumes duty in the service of the Education Department of any other Province or the Mandated Territory of South West Africa within twelve months of his resignation, the following conditions in connection with his pension benefits shall apply notwithstanding anything to the contrary in the principal ordinance or in any other law contained:—

(a) Such person shall within a period of six months after the commencement of such appointment elect either—

(i) to withdraw his pension contributions, whereafter he shall have no further claim upon the fund; or

(ii) to retain his pension rights in the fund as they existed immediately prior to the date on which he ceased to be a contributor, in which case the provisions of paragraphs (b) and (c) of this sub-section shall be applicable.

(b) If such person has completed not less than ten years' pensionable service in the aggregate in the service of the Education Departments of the Provinces and the Mandated Territory of South West Africa, he shall, at his ultimate retirement on the attainment of the prescribed retiring age or on his retirement on the grounds of ill-health, receive an annuity based on the actual period of his pensionable service under the Department irrespective of the length of such service, and calculated in accordance with the provisions of the principal ordinance; provided that—

(i) for the purpose of determining the average pensionable emoluments for pension purposes, the relative pensionable emoluments actually drawn by him before ultimate retirement shall be taken;

(ii) if the age at which such person retires, is below the age prescribed for retirement in the principal ordinance, such annuity

shall not become payable until such time as he reaches the prescribed retiring age, save where the retirement is caused by ill-health;

(ii) the annuity may be at a lesser rate than sixty pounds per annum notwithstanding the provision of section *eight* of the principal ordinance.

(c) If such person dies while in the service of the Education Department of any other Province or the Mandated Territory of South West Africa or before he has drawn the annuity payable under the provisions of paragraph (b) for a period of five years, the benefits payable under the provisions of section *fourteen* of the principal ordinance shall be paid in the manner therein set forth.

(2) If a contributor to the teachers' pension fund of any other Province or the Mandated Territory of South West Africa resigns from the service of such Province or the Mandated Territory of South West Africa and before he has reached the prescribed retiring age, is appointed to and assumes duty in the service of the Department within twelve months of his resignation the following conditions in respect of his pension benefits shall apply notwithstanding anything to the contrary in the principal ordinance or in any other law contained, provided he has elected to retain his pension rights in the pension fund of such Province or the Mandated Territory of South West Africa, as the case may be:—

(a) On becoming an officer he shall, notwithstanding anything to the contrary in section *three* of the principal ordinance contained, contribute to the pension fund as from the date of his appointment under the Department; provided that his age of entry for the purpose of contributions to the fund shall be the age of his admission to the first teachers' pension fund of any Province or the Mandated Territory of South West Africa in respect of which he had, for the purposes of this section, made an election to retain his pension benefits.

(b) Such officer who has completed not less than ten years' pensionable service in the aggregate, in the service of the Education Departments of the Provinces and the Mandated Territory of South West Africa shall at his ultimate retirement on the attainment of the prescribed retiring age or on his retirement on the grounds of ill-health, receive an annuity based on his actual pensionable service in the Department, irrespective of the length of such service, and calculated in accordance with the provisions of the principal ordinance; provided that for the purpose of determining the average pensionable emoluments for pension purposes his pensionable emoluments during such latter portion of his service in another Province or the Mandated Territory of South West Africa as may be necessary shall be taken into account; provided further that the annuity may be at a lesser rate than sixty pounds per annum notwithstanding the provision of section *eight* of the principal ordinance.

(3) This section shall be deemed to have come into operation on the first day of April, 1944."

**Repeal of Section 17 of Ordinance No. 17 of 1927, and substitution of New Section.**

2. Section *seventeen* of the Transvaal Teachers' Pensions Amendment Ordinance, 1927, is hereby repealed and the following section substituted therefor:—

**"Providing for Officers transferred from the Union Department of Education.**

17. An officer who has had satisfactory service under the Education Department of the Union, or at an institution under the Higher Education Act, 1923 (Act No. 30 of 1923), as amended, or at a university or college as defined in the Higher Education Additional Provision Act, 1917 (Act No. 20 of 1917), as amended, may be allowed to contribute to the fund in respect of so much of his service as the Board may approve and on such terms as the Board may

approve, provided that the officer's own contributions at the prescribed rate and the contributions which would have been made from revenue in respect of such approved service if the officer had been in the employment of the Transvaal Education Department shall be paid by the officer together with interest at the rate of five per cent. per annum compounded annually up to the date of payment."

**Short Title.**

3. This Ordinance may be cited as the Transvaal Teachers' Pensions Amendment Ordinance, 1945.

**No. 18 of 1945.—Unauthorised Expenditure (1943-44).**

**No. 19 of 1945.]**

[Assented to 2nd November, 1945.]

**AN ORDINANCE**

To make special provision for the re-admission to the service of School and Hospital Boards of persons who resigned from or otherwise relinquished their employment under School and Hospital Boards for the purpose of rendering military or other war service during the present war; for the appointment to the service of School and Hospital Boards of persons who have rendered military or other war service, and for matters incidental to the re-admission or appointment of such persons.

(Date of Operation 1st July, 1945.)

(Afrikaans copy signed by His Excellency the Officer Administering the Government.)

BE IT ENACTED by the Provincial Council of Transvaal as follows:—

**Definitions.**

1. (1) In this Ordinance unless the context indicates otherwise—

"Administrator" means the officer appointed under sub-section (1) of section *sixty-eight* of the South Africa Act, 1909, or any amendment thereof, acting on the advice and with the consent of the Executive Committee of the Province;

"Administration" means the Transvaal Provincial Administration;

"board" means a school board constituted under the Education Act, 1907 (Act No. 25 of 1907) and any amendment thereof or under any other law, and any board constituted under the Public Hospitals Ordinance, 1928 (Ordinance No. 18 of 1928), and any amendment thereof;

"employee" means a person, other than an officer, who is or was in the whole-time employ of a board;

"military service" means—

(a) whole-time service during the war with any force or service established by or under—

(i) the South Africa Defence Act, 1912 (Act No. 13 of 1912), as amended; or

(ii) any proclamation or regulation validated by section *two* of the War Measures Act, 1940 (Act No. 13 of 1940); or

(iii) any regulation made under section *one bis* of the latter Act, as amended; or

(b) whole-time service during the war with the land, naval or air forces of any Ally of the Union; or

(c) whole-time service during the war in the mercantile marine of the Union or of any Ally of the Union;

"officer" means any person whose pension rights and retirement benefits are or were governed by the Transvaal Hospital and School Board Officials' Pensions Ordinance, 1927 (Ordinance No. 14 of 1927), and any amendment thereof, or the Transvaal Hospital Nurses' Pensions Ordinance, 1919 (Ordinance No. 13 of 1919), and any amendment thereof;

"pensionable service" in relation to any officer means service which is pensionable service in terms of any statutory provision governing that officer's pension rights;



“pension fund” means either the Transvaal Hospital and School Board Officials’ Pension Fund established under the Transvaal Hospital and School Board Officials’ Pension Ordinance, 1927 (Ordinance No. 14 of 1927), and any amendment thereof, or the Transvaal Nurses’ Pension Fund established under the Transvaal Nurses’ Pensions Ordinance, 1919 (Ordinance No. 13 of 1919), and any amendment thereof, dependent upon which fund governs the officer’s pension rights;

“resignation” includes desertion and any other circumstances under which a person without permission vacated his office or post or relinquished his employment under a board for the purpose of rendering military service, and “resign” has a corresponding meaning;

“the war” means the period from and including the sixth day of September, 1939, to the date which the Governor-General declares by proclamation to be the date of termination of the war;

“whole-time service” in relation to military service, includes the period represented by any cash payment in lieu of leave made to the person concerned on his discharge from military service but does not include any part of a continuous period of more than twenty-one days during which the person concerned was granted leave of absence without pay or was unlawfully absent from duty, or in the case of any person appointed or otherwise employed in terms of section *four*, any part of a continuous period of more than twenty-one days during which such person was in custody, under detention in barracks, or undergoing punishment entailing, in each case, forfeiture of military pay.

(2) Any period of whole-time service by any person with any force or service referred to in paragraphs (a) and (b) of the definition of “military service” in sub-section (1) (other than the South African Permanent Force) which extends beyond the date declared by the Governor-General to be the date of termination of the war shall, if it commenced before the said date be regarded as military service for the purpose of this Ordinance.

**Re-admission to Employment of Officers and Employees who Resigned for the Purpose of Rendering Military Service.**

2. (1) Notwithstanding the provisions of any other law, an officer or employee who prior to the first day of April, 1945—

(a) resigned his office, post or employment for the purpose of rendering military service, and

(b) within a reasonable period after his resignation actually enlisted and entered military service, or was, on presenting himself for military service, rejected on medical or other grounds,

may be re-admitted to the office, post or employment which he so resigned or to any other office, post or employment for which he is suitable, if he makes written application to the board under which he was employed, within six months after the date of—

(i) his discharge from military service, or

(ii) his rejection for military service, or

(iii) the commencement of this Ordinance,

whichever may be the later; provided that the scale of salary or wages attaching to the office, post or employment to which he is so re-admitted shall not be lower than that which attached to the office, post or employment from which he so resigned.

(2) Notwithstanding the provisions of any other law, but subject to the succeeding provisions of this section an officer who is re-admitted to the service of a board in terms of sub-section (1) of this section shall be entitled to elect, in writing, within one month from the date upon which he is called upon by a board or the Administration to do so, to have both—

(a) the period of continuous service completed by him immediately prior to the date of his resignation, and

(b) so much of the period between the date of his resignation and the date of his re-admission as may be determined by the Administrator, but not being less in the case of an officer who has rendered military service, than the period or periods of such military service,

included in his pensionable service subject to such terms and conditions as may be approved by the Administrator; provided that no part of any such period shall be included in an officer's pensionable service under this sub-section if the effect of such inclusion would be to make that officer's pensionable service commence from a date prior to that from which it would have commenced, had he not resigned and had he remained an officer.

(3) Without prejudice to the generality of the provisions of sub-section (2) of this section, the terms and conditions therein referred to may include conditions—

(a) as to the refund, by the officer concerned, in instalments or otherwise, of any monetary benefit which may have been paid to him, on his resignation, from any pension fund of which he was a member; ;

(b) as to the payment from the Provincial Revenue Fund, if the officer falls under a school board, or by the board, if the officer falls under a hospital board, and by the officer concerned, in equal or unequal shares or from the Provincial Revenue Fund or by the board (as the case may be) alone—

(i) of contributions to the pension fund, in respect of any period which is included in the pensionable service of such officer in terms of sub-section (2) of this section,

(ii) of interest on such contributions or on such monetary benefit; and

(iii) of any other moneys which may be necessary to compensate or to secure the pension fund for or against any losses arising out of the resignation and re-admission of such officer.

(4) Any period between the date of his resignation and the date of his re-admission which is not included in an officer's pensionable service under sub-section (2) of this section shall be deemed not to interrupt the continuity of his service for pension purposes.

(5) The provisions of this section shall not apply in respect of an officer or employee who took up civil employment, other than employment under a board, after the commencement of this Ordinance, unless the Administrator otherwise directs.

**Officers may, subject to Conditions, include in Pensionable Service certain Portion of Leave of Absence without Pay.**

3. (1) Notwithstanding anything contained in any law governing any officer's pension rights, an officer to whom, by reason of his release for military service, leave of absence without civil pay was granted by the board, shall be entitled to elect, in writing, within one month from the date upon which he is called upon by the board or the Administration to do so, to have included in his pensionable service, subject to such terms and conditions as may be approved by the Administrator, such portion of the period of his leave of absence as the Administrator may determine, but not being less, in the case of an officer who has rendered military service, than the actual period or periods of such service.

(2) The proviso to sub-section (2) of section two and sub-sections (3) and (5) of that section shall apply *mutatis mutandis* in so far as they are applicable, in respect of the inclusion of any period in any officer's pensionable service under sub-section (1) of this section.

**New Appointments and Appointment of Employees as Officers.**

4. (1) A person, other than an officer, who has rendered military service and who desires to be appointed to the service of a board or to be otherwise employed under a board, may register his application for such appointment or employment with the Administration within six months after the date of commencement of this Ordinance or the date of the applicant's discharge from military service, whichever is the later.

(2) (a) If a person referred to in sub-section (1) of this section, who has registered his application for appointment or employment in terms of that sub-section is eligible for appointment to an office or post under a board or is qualified for other employment under a board, and is so appointed or employed, he may, with the approval of the Administrator, be granted commencing remuneration in excess of the minimum of the scale of salary or wages attaching to the office, post or employment in question.

(b) In determining a person's commencing remuneration in terms of paragraph (a) of this sub-section the Administrator shall have regard to the duration of the military service of such person and may take into consideration any qualifications or previous experience which, in the opinion of the Administrator, render such person suitable for such appointment or employment.

(3) If a person referred to in sub-section (1) of this section, who has registered his application for appointment or employment in terms of that sub-section is, by reason of the operation of any law ineligible for appointment under a board, the Administrator may, in his discretion, suspend, relax or waive any or all of the requirements of such law relating to health, age and educational qualifications, in order to permit of the appointment of such person; provided the Administrator is satisfied that the general physical condition and educational standard of such person, including his knowledge of both official languages, render him capable of performing efficiently the duties attaching to the office or post to which it is proposed to appoint him.

(4) The provisions of sub-section (2) of this section shall apply in respect of a person appointed in terms of sub-section (3) of this section; provided that any such appointment may be made subject to compliance by the person concerned, within a period to be specified by the Administrator, with such conditions as may be laid down by the Administrator.

(5) Any person who is appointed to an office or post under a board in terms of sub-section (2) or (3) of this section, or who is otherwise employed by a board in terms of sub-section (2) of this section shall, if he is an officer, be entitled to elect, in writing, within one month from the date upon which he is called upon by the board or the Administration to do so to have the period or periods of his military service included in his pensionable service subject to such terms and conditions as may be approved by the Administrator, and the provisions of sub-section (3) of section *two* shall *mutatis mutandis* and so far as they are applicable, apply with regard to conditions approved by the Administrator under this sub-section; provided that no part of any period of his military service shall be included in an officer's pensionable service under this sub-section if that part of his military service is, or was, pensionable service under the provisions of any other law, or if the effect of such inclusion would be to make that officer's pensionable service commence from a date prior to that from which it would have commenced, had he entered the employ of a board, as an officer, on the date when he first entered military service, and remained so employed; provided further, that no part of any period of his military service prior to the date upon which he attained the age prescribed as the minimum age for the particular post or employment to which he is appointed or in which he is employed, shall be so included in his pensionable service.

(6) If an officer has elected, in terms of sub-section (5) of this section, to have the period or periods of his military service included in his pensionable service, the continuity of his service for pension purposes shall be deemed not to be interrupted by any period between the date of his first enlistment for military service and the date of his appointment or employment under the board which does not count as military service.

(7) No person who is not a Union National at the date upon which his application for appointment or employment is lodged in terms of sub-section (1) of this section shall be appointed or employed in terms of sub-section (2) or (3) of this section.

#### **Advances to Pension Funds from Revenue.**

5. (1) Whenever an officer is re-admitted, appointed or employed under this Ordinance, or was granted leave of absence without civil pay in respect of any period of his absence on military service, there may be advanced to the appropriate pension fund out of the Provincial Revenue Fund, if such officer falls under a school board, or out of revenue of the hospital board, if such officer falls under a hospital board, a sum not exceeding the total amount of any contribution or other moneys which, in terms of any conditions approved by the Administrator, under the provisions of this Ordinance, are payable by such officer to that fund, and the sum so advanced shall be recovered by deduction from that officer's salary or wages in such instalments as the Administrator may direct.

(2) If the employment of any such officer is terminated for any reason whatever before the total amount to be so paid by him to the pension fund, or to be recovered from him in terms of sub-section (1) of this section, has been fully paid or recovered, the amount still unpaid shall be deducted from any benefit payable under the pension law applicable to him.

**Leave of Absence without Pay to Count as Service for Purposes of Salary Increments.**

6. (1) Notwithstanding anything to the contrary in any other law, if any person in the employ of a board was or is granted leave of absence without civil pay by the board, in respect of any period of his absence on military service, such leave of absence together with not more than thirty days prior to his enlistment for, and thirty days subsequent to his discharge from such service, shall count as service for the purpose of increments in his civil salary or wages, and the provisions of this sub-section shall have effect as from the date upon which such person became or becomes eligible for the payment of such salary or wages.

(2) For the purposes of sub-section (1) of this section a person who has rendered military service and who is re-admitted to the service of a board in terms of sub-section (1) of section *two*, shall be deemed to have been on authorised leave of absence, without civil pay for the period or periods of his military service together with not more than thirty days prior to his first enlistment for, and thirty days subsequent to his final discharge from such service.

**Extension of Periods fixed by or under this Ordinance.**

7. Any period fixed by or under this Ordinance for the lodging of any application for re-admission, appointment or employment, or for the making of any election, or for the fulfilment of any condition laid down under sub-section (4) of section *four*, may, at the discretion of the Administrator, be extended if in his opinion the circumstances are exceptional by such period as may appear to him to be reasonable; provided that no such extension shall be effective beyond the date fixed for the expiry of this Ordinance.

**Certain Pension contributions paid by Province or Board to be regarded as paid by Officer in respect of whom they were Paid.**

8. If in terms of any conditions approved by the Administrator under sub-section (2) of section *two*, section *three* or sub-section (5) of section *four*, the Province or a board as the case may be, is required to pay, in respect of any period which under any of those sub-sections has been included in an officer's pensionable service, in addition to its own share, also that officer's share of any contributions payable in respect of any such period to a pension fund, or that officer's share of any interest payable in respect of such contributions, any payment so made by the Province or by a board shall, in so far as it represents that officer's share of the said contributions and the said interest (if any), be regarded for the purposes of any pension law applicable to him, as having been made by such officer himself; provided that if such officer retires or is retired or discharged in circumstances mentioned in section *twelve* or *thirteen* of the Transvaal Hospital and School Board Officials' Pensions Ordinance, 1927 (Ordinance No. 14 of 1927) and any amendment thereof, or section *eleven* or *twelve* of the Transvaal Hospital Nurses' Pensions Ordinance, 1919 (Ordinance No. 13 of 1919) and any amendment thereof, there shall be deducted from any benefit payable to him under the applicable pension law, and repaid to the Provincial Revenue Fund or to the revenue of the board, as the case may be, an amount equal to the amount which in terms of this section is regarded as having been paid by such officer himself.

**Regulations.**

9. The Administrator may, from time to time, make regulations, generally, not inconsistent with or repugnant to the provisions of this Ordinance, in respect of all matters which he considers necessary or expedient to prescribe for the achievement of the purposes of this Ordinance.

**Retrospective Application of this Ordinance in respect of Certain Persons.**

10. A person who has rendered military service and has been re-admitted, appointed or employed prior to the commencement of this Ordinance, may, with effect from the date on which he was so re-admitted, appointed or employed, be dealt with in such manner as he might have been dealt with had this Ordinance been in force at the date when he was re-admitted, appointed or employed; provided that this section shall not apply to a person

who subsequent to such re-admission, appointment or employment, voluntarily retired or was discharged from employment under a board.

**Duration of Ordinance.**

11. (1) This Ordinance shall expire on a date to be fixed by the Administrator by proclamation in the *Provincial Gazette*, which shall not be later than five years after the date which the Governor-General has by proclamation declared to be the date of termination of the war; provided that the said period of five years may from time to time be extended by resolution of the Provincial Council for any period specified in the resolution.

(2) The expiry of this Ordinance shall not affect the operation thereof as regards previous acts or omissions.

**Date of Commencement of this Ordinance.**

12. Subject to the provisions of section ten this Ordinance shall be deemed to have come into operation on the first day of July, 1945.

**Short Title.**

13. This Ordinance may be cited as the Hospital and School Boards Officials' (Military Service) Ordinance, 1945.

No. 20 of 1945.]

[Assented to 12th November, 1945.]

**AN ORDINANCE**

**To provide for the Delegation by the Administrator of certain Powers.**

*(Date of Operation 28th November, 1945.)*

*(Afrikaans copy signed by His Excellency the Officer Administering the Government.)*

BE IT ENACTED by the Provincial Council of Transvaal as follows:—

**Definition.**

1. In this Ordinance, unless inconsistent with the context—

“ Administrator ” means the Administrator of the Province of Transvaal acting on the advice and with the consent of the Executive Committee of the said Province.

**Administrator may Delegate certain Powers.**

2. (1) Whenever any powers are conferred on the Administrator in any law relating to matters in respect of which the power to make ordinances is reserved or delegated to the Provincial Council it shall be lawful for the Administrator to delegate any or all of such powers to such officer of the Transvaal Provincial Administration as he may direct subject to such conditions as he may from time to time determine.

(2) The provisions of sub-section (1) shall not enable the Administrator to delegate any power conferred on him to issue proclamations or make regulations.

**Short Title.**

3. This Ordinance may be cited as the Delegation of Powers Ordinance, 1945.

No. 21 of 1945.]

[Assented to 13th November, 1945.]

**AN ORDINANCE**

**To amend the Peri-Urban Areas Health Board Ordinance, 1943, the Local Government Ordinance, 1939, and the Licences (Control) Ordinance, 1931.**

*(Date of Operation 28th November, 1945.)*

*(English copy signed by His Excellency the Officer Administering the Government.)*

BE IT ENACTED by the Provincial Council of Transvaal as follows:—

**Amendment of Section 26 of Ordinance No. 20 of 1943.**

1. Section *twenty-six* of the Peri-Urban Areas Health Board Ordinance, 1943, as amended (hereinafter referred to as the principal ordinance) is

hereby amended by the addition thereto of the following new sub-sections (2), (3) and (4); the existing section becoming sub-section (1)—

“(2) There shall be paid from the Provincial Revenue Fund to the board in respect of each financial year such amounts to be determined by the Administrator as being as nearly as possible equal to the sum collected in each financial year from within the board’s area of jurisdiction in respect of dog licence fees and wheel taxes collected under the Licensing and Control of Dogs Ordinance, No. 18 of 1933 (as amended) and the Wheel Tax Ordinance, No. 1 of 1941 (as amended), respectively.

(3) Sub-section (2) of this section shall be deemed to have come into operation on the 1st day of November, 1944, provided that for the period 1st day of November, 1944, to the 31st day of March, 1945, the amounts payable to the board shall be five-twelfths of the amounts which would have been payable to the board had the provisions of sub-section (2) hereof been applicable since the 1st day of April, 1944.

(4) For the purposes of sub-section (2) of this section the expression “financial year” shall mean the period from the 1st day of April in any year to the 31st day of March in the year next succeeding, both days inclusive.”

**Insertion of New Section 26bis in Ordinance No. 20 of 1943.**

2. The following new section is hereby inserted in the principal ordinance after section *twenty-six*—

**“ Payment of Rates, Taxes and other Charges before Transfer of Premises.**

*26bis.* The Administrator may by proclamation in the *Gazette* apply the provisions of section *fifty* of the Local Government Ordinance, 1939, as amended, *mutatis mutandis* to any area in or portion of the board’s area of jurisdiction; provided that the words ‘municipality’ and ‘town clerk’ in that section shall for the purposes of this section be construed as meaning ‘the area in or portion of the board’s area of jurisdiction specified in the aforesaid proclamation’ and ‘secretary-treasurer’ respectively.”

**Amendment of Section 27 of Ordinance No. 20 of 1943.**

3. Section *twenty-seven* of the principal ordinance is hereby amended by the addition thereto of the following sub-section (2), the existing section becoming sub-section (1)—

“(2) There shall be supplied by the Transvaal Province to the board, at a cost not exceeding £2,500 such furniture, stationery, equipment and other articles and materials as may be required by the board at its head office.”

**Insertion of New Section 28bis in Ordinance No. 3 of 1932.**

4. The following new section is hereby inserted in the principal ordinance after section *twenty-eight*:—

**“ Application of Provisions of Motor Vehicle Ordinance to Board.**

*28bis.* The Administrator may from time to time by proclamation in the *Provincial Gazette* apply any of the provisions of the Motor Vehicle Ordinance, 1931 (Ordinance No. 17 of 1931), as amended, *mutatis mutandis* to the board where such provisions are not already applicable to the Board, and withdraw any such proclamation.”

**Amendment of Section 29 of Ordinance No. 20 of 1943, as amended by Section 1 of Ordinance No. 20 of 1944.**

5. Section *twenty-nine* of the principal ordinance is hereby amended by the addition of the following new paragraph (e) at the end thereof—

“(e) the board may from time to time appoint separate valuation courts for the different areas within its area of jurisdiction for which valuation rolls are prepared.”

**Amendment of Section 34 of Ordinance No. 20 of 1943.**

6. Section *Thirty-four* of the principal ordinance is hereby amended by the deletion of sub-section (1) thereof and the substitution therefor of the following:—

“(1) The provisions of the Townships and Town-planning Ordinance, 1931 (Ordinance No. 11 of 1931), as amended, shall be applied *mutatis mutandis* and as far as they may be applicable to the board; provided that the words ‘local authority’ in that Ordinance shall for the purposes of this section be construed as meaning ‘board’; provided further that notwithstanding anything to the contrary in Chapter IV of that Ordinance the board may, when carrying out the provisions of the said Chapter prepare a town-planning scheme or schemes for such portion or portions only of the land within its area of jurisdiction as the Administrator may determine.”

**Insertion of New Section 36bis in Ordinance No. 20 of 1943.**

7. The following new section is hereby inserted in the principal ordinance after section *thirty-six*:—

**“ Roads.**

**36bis.** The provisions of the Local Authorities Roads Ordinance, 1904 (Ordinance No. 44 of 1904), as amended, shall apply *mutatis mutandis* to the board; provided that the words ‘local authority’ in that Ordinance shall for the purposes of this section be construed as meaning ‘board’.”

**Insertion of New Section 3bis in Ordinance No. 3 of 1932.**

8. The following new section is hereby inserted after section *three* of the Licences (Control) Ordinance, 1931 (Ordinance No 3 of 1932), as amended—

**“ Peri-Urban Areas Health Board to Function as Local Authority in Certain Areas.**

**3bis.** Within its area of jurisdiction the Peri-Urban Areas Health Board shall for the purposes of this Ordinance be deemed to be a local authority in respect of all such areas as have been excluded from the jurisdiction of a board in consequence of any action taken by the Administrator in terms of paragraph (b) of sub-section (1) of section three and which have not immediately been incorporated in the area of jurisdiction of any other board.”

**Amendment of Section 124 of Ordinance No. 17 of 1939, as amended by Section 45 of Ordinance No. 20 of 1943.**

9. Section *one hundred and twenty-four* of the Local Government Ordinance, 1939 (Ordinance No. 17 of 1939), as amended, is hereby amended by the deletion in sub-section (4) thereof of the words “assets and liabilities of such health committee shall be transferred to that board” and the substitution therefor of the following:—

“ following provisions shall apply—

(a) all creditors of such health committee shall have the same rights and remedies against the board as they possessed or were entitled to prior to the incorporation;

(b) all works and undertakings authorised to be executed, all rights, liabilities and engagements existing, and all actions, suits and legal proceedings or prosecutions pending by or against or in respect of such health committee as at the date of such incorporation shall as and from such date be executed, vested in, attached to and be enforced, carried on and prosecuted by or against the board and no such action, suit, proceeding or prosecution shall abate or be discontinued or be prejudicially affected by reason of the said incorporation;

(c) all rates, charges and debts whatsoever owing, due or payable to, or recoverable by such health committee as at the date of such incorporation shall be vested in, payable to and recoverable by the board and all valuation or assessment rolls lawfully compiled by such health committee in terms of the provisions of any Local Authorities Rating

Ordinance, or any amendment thereof and in force at the date of such incorporation shall continue in force and use in the area in which the health committee functioned, until such time as such valuation or assessment rolls shall be lawfully amended or new rolls shall be lawfully compiled by the board within the period prescribed under any Local Authorities Rating Ordinance in respect of the rolls of the area of the board prior to such incorporation; and any erf tax levied or leviable in terms of section *three* of the Local Authorities Rating Ordinance, 1933, as amended, shall continue of force and effect until the expiration of the period for which the levying of such erf tax was authorised under the said section or until the date of coming into operation of a valuation or assessment roll compiled by the board in respect of such area whichever is the earlier;

(d) all property movable and immovable vested in or belonging to such health committee or to which the latter was entitled at the date of incorporation and all claims to which such health committee was entitled at the said date shall as and from such date be vested in and belong to the board.

(e) all regulations in force in the area of such health committee as at the date of the incorporation shall continue of full force and effect, anything to the contrary in this Ordinance notwithstanding, until the expiration of a period not exceeding one year as and from the date of such incorporation or until the board makes by-laws in substitution thereof whichever is the earlier."

**Short Title.**

10. This Ordinance may be cited as the Peri-Urban Areas Health Board Amendment Ordinance, 1945.