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OFFICE OF THE PRIME MINISTER.

The following Government Notice is published for general information.

No. 901. 24th June, 1936.

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

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KANTOOR VAN DIE EERSTE MINISTER.

Onderstaande Goewermentskennisgewing word vir algemene informasie gepubliseer.

No. 901. 24 Junie 1936.

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

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No. 23, 1936.]

ACT

To amend the law relating to Miners' Phthisis.

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

Definition.

1. In this Act the expression "Consolidation Act" means the Miners' Phthisis Acts Consolidation Act, 1925 (Act No. 35 of 1925) as amended by the Miners' Phthisis Acts Further Amendment Act, 1930 (Act No. 38 of 1930) and by the Miners' Phthisis Amendment Act, 1934 (Act No. 60 of 1934).

Amendment of section 1 of Act 35 of 1925.

2. The following new sub-sections are hereby added to section *one* of the Consolidation Act:

(4) When a mine has been scheduled as aforesaid, any land upon which mining operations are thereafter carried on in conjunction with that mine shall be deemed to form part of the mine in conjunction wherewith those operations are carried on.

(5) If the question arises whether mining operations are or were carried on upon any land in conjunction with a scheduled mine or as to the date from which or the period during which any such operations were carried on upon such land, the Minister's decision of that question shall, for the purposes of sub-section (4) be final and conclusive.

Amendment of section 33*bis* of Act 35 of 1925.

3. Section *thirty-three bis* of the Consolidation Act is hereby amended—

(i) by the insertion in sub-section (2) of the Dutch version, of the word "Basoetoland" after the word "Betsjoeanaland";

(ii) by the insertion after the figure "1933" in paragraph (b) of sub-section (3), of the words "or the date on which he became a beneficiary for the first time (whichever date is the later)".

Amendment of section 39*bis* of Act 35 of 1925.

4. The following new sub-section is hereby added to section *thirty-nine bis* of the Consolidation Act:

"(3) With the consent in writing of the Minister, the Board may from time to time transfer such sums of money from the Compensation Fund to the Special Fund as may be necessary for the purposes of the Special Fund: Provided that the Board shall not transfer any money to the Special Fund under this sub-section if there is sufficient money in the Special Fund to meet the Board's commitments from that Fund or if any moneys mentioned in sub-section (2) are available for transfer to the Special Fund; and provided, further, that not more than seventy-five thousand pounds shall be transferred to the Special Fund under this sub-section during any one financial year of the Board."

Amendment of section 54 of Act 35 of 1925.

5. Sub-section (2) of section *fifty-four* of the Consolidation Act is hereby amended by the insertion of the following paragraph after paragraph (d):

"(e) other liabilities of the fund which the actuary may estimate as likely to arise under this Act."

Amendment of section 64*bis* of Act 35 of 1925.

6. Section *sixty-four bis* of the Consolidation Act is hereby amended—

(a) by the insertion in sub-section (1) after the words "legatee of the deceased"; of the words:

"Provided that if such a deceased miner left no dependent, the Board may, in its discretion, pay to any person who is, in the opinion of the Board, a creditor of the deceased, any moneys which at the time of his death, had accrued to him by way of a monthly allowance or by way of any instalment of any other benefit to which the deceased was entitled from funds under the control of the board."

(b) by the substitution, for sub-section (2) of the following new sub-section:

No. 23, 1936.]

WET

Tot wysiging van die wette op myntering.

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

1. In hierdie Wet beteken die uitdrukking „Konsolidasiewet” die „Mijnteringwetten-Konsolidatiewet, 1925” (Wet No. 35 van 1925) soas gewysig deur die Mynteringwette Verdere Wysigingswet, 1930 (Wet No. 38 van 1930) en die Myntering-Wysigingswet, 1934 (Wet No. 60 van 1934). Woordoms kry-
wing.
2. Die volgende nuwe sub-artikels word hiermee aan artikel een van die Konsolidasiewet toegevoeg: Wysiging van
artikel I van Wet
35 van 1925.
 - (4) Wanneer een mijn zoals voormeld ingelijst is geworden, word alle grond waarop daarna in verband met die mijn mijnwerkzaamheden verricht word, geacht deel uit te maken van die mijn in verband waarmee die werkzaamheden verricht word.
 - (5) Indien die vraag ontstaat of op een stuk grond in verband met een ingelijste mijn mijnwerkzaamheden verricht word of wêrden of omtrent de dag vanaf welke of het tydperk gedurende hetwelk zodanige werkzaamheden op die grond verricht word, dan is de beslissing van die vraag door de Minister bij de toepassing van sub-artikel (4) finaal en afdoende.
3. Artikel drie-en-dertig bis van die Konsolidasiewet word hiermee gewysig— Wysiging van arti-
kel 33bis van Wet
35 van 1925.
 - (i) deur in sub-artikel (2) van die Hollandse teks die woord „Basoetoland” na die woord „Betsjoeanaland” in te voeg;
 - (ii) deur in paragraaf (b) van sub-artikel (3) na die getal „1933” die volgende woorde in te voeg: „of de dag waarop hij voor de eerste keer een bevooroordeelde werd (naar gelang de ene of de andere dag later is)”.
4. Die volgende nuwe sub-artikel word hiermee aan artikel negen-en-dertig bis van die Konsolidasiewet toegevoeg: Wysiging van arti-
kel 39bis van Wet
35 van 1925.

„(3) Met schriftelike toestemming van de Minister, kan de raad van tijd tot tijd de geldsommen, die voor de doeleinden van het speciale fonds nodig mochten zijn, uit het kompensatiefonds naar het speciale fonds overdragen: Met dien verstande dat de raad niet krachtens dit sub-artikel geld naar het speciale fonds mag overdragen, indien er voldoende geld in het speciale fonds is tot dekking van de verplichtingen van de raad ten aanzien van dat fonds of indien er gelden, die in sub-artikel (2) vermeld worden, beschikbaar zijn om naar het speciale fonds overgedragen te worden; en met dien verstande voorts dat niet meer dan vijf en zeventig duizend pond ingevolge dit sub-artikel gedurende een en hetzelfde boekjaar van de raad naar het speciale fonds mag overgedragen worden.”
5. Sub-artikel (2) van artikel vier-en-veertig van die Konsolidasiewet word hiermee gewysig deur die volgende nuwe paragraaf na paragraaf (d) in te voeg: Wysiging van arti-
kel 54 van Wet 35
van 1925.

„(e) andere schulden van het fonds, die volgens beraming van de aktuaris waarskynlik ingevolge deze Wet ontstaan zullen.”
6. Artikel vier-en-estig bis van die Konsolidasiewet word hiermee gewysig— Wysiging van arti-
kel 64bis van Wet
35 van 1925.
 - (a) deur die volgende woorde na die woorde „uitbetaald word” in sub-artikel (1) in te voeg:

„Met dien verstande dat indien zulk een mijnwerker geen afhankelike nagelaten heeft, de raad volgens zijn diskretie aan iemand die, naar het oordeel van de raad, een schuldeiser van de overledene is, gelden kan uitbetalen die ten tijde van zijn dood aan hem toekwamen als maandelikse toelage of als paalement van een ander voordeel waartoe de overledene gerechtigd was uit gelden die de raad beheert”;
 - (b) deur sub-artikel (2) te vervang deur die volgende sub-artikel:

“(2) If the Board has drawn and issued a cheque in favour of a beneficiary miner or a beneficiary dependent of a miner and the payee died before the cheque was paid out to him, the Board may, in its discretion, for the purposes of sub-section (1) deal with the amount of the cheque as if it were a balance referred to in that sub-section.”

Amendment of section 76 of Act 35 of 1925.

7. Section *seventy-six* of the Consolidation Act is hereby amended—

- (a) by the insertion, before the definition of “beneficiary”, of the following new definition:
 “‘award’ when used as a noun in relation to any benefit to which a beneficiary is entitled, means the decision of the Board to pay the benefit in question to the beneficiary, and when used in any tense as a verb, that expression bears a corresponding meaning;”;
- (b) by the insertion, after the definition of “employer” of the following new definition:
 “‘grant’ bears the same meaning as ‘award’;”;
- (c) by the insertion after the word “station”, in the definition of “underground”, of the words “(operated for the purpose of ore reduction)”;
- (d) by the insertion of the word “halfzuster” after the word “halfbroeder” in sub-paragraph (iii) of paragraph (b) of sub-section (4) of the Dutch version.

Amendment of Third Schedule to Act 35 of 1925.

8. The following paragraphs are hereby substituted for paragraph (e) of the Third Schedule to the Consolidation Act:

“(e) Upon the death of a miner entitled to a monthly allowance, a legitimate child of the miner dependent upon him, for whom no monthly allowance was payable during the lifetime of the miner, in terms of paragraph (b), shall be entitled to a monthly allowance as if a monthly allowance had been payable for him during the lifetime of the miner in terms of paragraph (b).

(e)*bis*. Any dependent of a deceased miner who—

- (i) is under the age of sixteen years and was not a legitimate child of the miner; or
- (ii) at the time of the miner’s death, was an illegitimate child of that miner, and who was born before the first day of August, 1919 or if born after that date, was born before the date of the certificate of the Bureau by virtue whereof the deceased became entitled to a monthly allowance,

shall be entitled to the monthly allowance to which he would have been entitled if he had been a legitimate child of the miner.”

Short title and commencement.

9. This Act shall be called the Miners’ Phthisis Amendment Act, 1936, and shall come into operation on the first day of August, 1936.

„(2) Indien de raad een cheque getrokken en uitgegeven heeft ten bate van een bevoordeelde mijnwerker of van een bevoordeelde afhankelike van een mijnwerker, en de nemer gestorven is voor de cheque aan hem uitbetaald werd, dan kan de raad volgens zijn diskretie in de zin van sub-artikel (1) met het bedrag van de cheque handelen alsof het een in dat sub-artikel bedoeld saldo was.”

7. Artikel *ses-en-seventig* van die Konsolidasiewet word hiermee gewysig—

Wysiging van artikel 76 van Wet 35 van 1925.

(a) deur die volgende nuwe omskrywing voor die omskrywing van „bevoordeelde” in te voeg:

„toekenning”, met betrekking tot een voordeel waartoe een bevoordeelde gerechtigd is, het besluit van de raad om het betrokken voordeel aan de bevoordeelde uit te betalen en onder het werkwoord „toekennen”, in welke tijdsvorm ook al gebezigd, een daarmee overeenstemmende handeling”;

(b) deur die woorde „ter bewerking van erts gebruik” voor die woord „rotsvergruishuis” in die omskrywing van „ondergronds” in te voeg;

(c) deur die woord „halfzuster” na die woord „halfbroeder” in sub-paragraaf (iii) van paragraaf (b) van sub-artikel (4) in te voeg.

8. Paragraaf (e) van die Derde Bylae tot die Konsolidasiewet word hiermee deur die volgende paragrawe vervang:

Wysiging van die Derde Bylae tot Wet 35 van 1925.

„(e) Bij de dood van een tot een maandelikse toelage gerechtigde mijnwerker, is een echt kind van de mijnwerker, dat van hem afhanklik was en voor hetwelk geen maandelikse toelage ingevolge paragraaf (b) verschuldigd was terwyl de mijnwerker in leven was, gerechtigd tot een maandelikse toelage alsof een maandelikse toelage volgens paragraaf (b) voor dat kind verschuldigd ware geweest terwyl de mijnwerker in leven was.

(e)*bis*. Een afhanklike van een overleden mijnwerker die—

(i) onder zestien jaar oud is en niet een echt kind van de mijnwerker was; of

(ii) ten tijde van de dood van de mijnwerker een onecht kind van die mijnwerker was en geboren is vóór de eerste dag van Augustus 1919, of indien na die dag geboren, geboren is vóór de dagtekening van het certifikaat van het bureau op grond waarvan de overledene gerechtigd werd tot een maandelikse toelage,

is gerechtigd tot de maandelikse toelage waartoe hij gerechtigd geweest zou zijn indien hij een echt kind van de mijnwerker ware geweest”.

9. Hierdie Wet heet die Myntering-Wysigingswet, 1936, en tree op die eerste dag van Augustus 1936 in werking.

Kort titel en inwerkingtreding.

No. 24, 1936.]

ACT

To consolidate and amend the law relating to insolvent persons and to their estates.

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

Repeal of laws.

1. The Insolvency Act, 1916 (Act No. 32 of 1916), the Insolvency Act, 1916, Amendment Act, 1926 (Act No. 29 of 1926) (except the title and preamble thereof and sections *one*, *seventy-one*, *seventy-two* and *seventy-four* thereof) and section *twenty* of the Land Bank Amendment Act, 1934 (Act No. 58 of 1934) are hereby repealed: Provided that if an estate was sequestrated or assigned before the commencement of this Act the sequestration or assignment and all proceedings in connection therewith shall be completed, and a person whose estate was sequestrated or assigned before such commencement and any matter relating to such sequestration, assignment or person shall be dealt with as if this Act had not been passed; and provided further that if, before the said commencement, any action was taken under the said Act No. 32 of 1916 with a view to the surrender or sequestration of an estate but the surrender or sequestration was not effected before the said commencement, such action shall, after such commencement, be deemed to have been taken under this Act, in so far as this Act makes provision therefor.

Definitions.

2. In this Act unless inconsistent with the context—

“account”, in relation to a trustee, means a liquidation, account or a plan of distribution or of contribution, or any supplementary liquidation account or plan of distribution or contribution, as the case may require;

“Court” or “the Court”, in relation to any matter means the provincial or local division of the Supreme Court which has jurisdiction in that matter in terms of section *one hundred and forty-nine* or *one hundred and fifty-one*, or any judge of that division; and in relation to any offence under this Act or in section *eight*, *twenty-six*, *twenty-nine*, *thirty*, *thirty-one*, *thirty-two*, paragraph (a) of sub-section (3) of section *thirty-four*, *seventy-two*, *seventy-three*, *seventy-five*, *seventy-six*, *seventy-eight* or *one hundred and forty-seven* the expression “Court” or “the Court” includes a magistrate's court which has jurisdiction in regard to the offence or matter in question;

“debtor”, in connection with the sequestration of the debtor's estate, means a person or a partnership or the estate of a person or partnership which is a debtor in the usual sense of the word, except a body corporate or a company or other association of persons which may be placed in liquidation under the law relating to companies;

“disposition” means any transfer or abandonment of rights to property and includes a sale, lease, mortgage, pledge, delivery, payment, release, compromise, donation or any contract therefor, but does not include a disposition in compliance with an order of the Court;

“free residue”, in relation to an insolvent estate, means that portion of the estate which is not subject to any right of preference by reason of any special mortgage, legal hypothec, pledge or right of retention: Provided that for the purpose of this definition the expression “special mortgage” includes a notarial bond passed and registered in terms of section *one* of the Notarial Bonds (Natal) Act, 1932 (Act No. 18 of 1932) but does not include any other notarial bond which was executed after the first day of October, 1926, and

No. 24, 1936.]

WET

Tot samevatting en wysiging van die wette op insolvente persone en op hulle boedels.

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

1. Die „Insolventiewet, 1916” (Wet No. 32 van 1916), Wetsherroeping.
die „Insolventiewet, 1916, Wijzigingswet, 1926” (Wet No. 29 van 1926) (behalwe die titel en die aanhef en artikels *een, een-en-sewentig, twee-en-sewentig* en *vier-en-sewentig* daarvan) en artikel *twintig* van die Landbank-wysigingswet, 1934 (Wet No. 58 van 1934) word hiermee herroep: Met dien verstande dat as ’n boedel voor die invoering van hierdie Wet gesekwestreer of afgestaan is, dan word die sekwestrasie of boedelafstand en alle verrigtings in verband daarmee voltooi en word met ’n persoon wie se boedel voor daardie invoering gesekwestreer of afgestaan is en met alle sake in verband met bedoelde sekwestrasie, boedelafstand of persoon gehandel asof hierdie Wet nie ingevoer was nie; en met dien verstande voorts dat as voor bedoelde invoering stappe gedaan is kragtens voormelde Wet No. 32 van 1916, tot oorgawe of sekwestrasie van ’n boedel, maar die oorgawe of sekwestrasie nie voor bedoelde invoering bewerkstellig is nie, daardie stappe na bedoelde invoering geag word kragtens hierdie Wet gedaan te wees, vir sover as wat hierdie Wet daarvoor voorsiening maak.

2. Tensy uit die samehang anders blyk, het onderstaande Woordomskrywing.
uitdrukkings in hierdie Wet die volgende betekenis:

„rekening”, met betrekking tot ’n kurator, beteken na gelang van die geval ’n likwidasierekening of ’n distribusierekening of ’n kontribusierekening of ’n aanvullende likwidasierekening of distribusierekening of kontribusierekening;

„hof” of „die hof”, met betrekking tot een of ander aangeleentheid, beteken die provinsiale of plaaslike afdeling van die hooggeregshof wat kragtens artikel *honderd-negen-en-veertig* of *honderd-een-en-veertig* in daardie aangeleentheid bevoeg is, of ’n regter van daardie afdeling; en met betrekking tot ’n misdryf volgens hierdie Wet of in artikel *agt, ses-en-twintig, negen-en-twintig, dertig, een-en-dertig, twee-en-dertig*, paragraaf (a) van sub-artikel (3) van artikel *vier-en-dertig, twee-en-sewentig, drie-en-sewentig, vyf-en-sewentig, ses-en-sewentig, agt-en-sewentig* of *honderd-sewen-en-veertig* omvat die uitdrukking „hof” of „die hof” ’n magistratuurshof wat ten opsigte van die betrokke misdryf of aangeleentheid bevoeg is;

„skuldenaar”, in verband met die sekwestrasie van ’n skuldenaar se boedel, beteken ’n persoon of vennootskap of die boedel van ’n persoon of vennootskap wat ’n skuldenaar volgens die gewone betekenis van die woord is, met uitsondering van ’n regspersoon, maatskappy of ander vereniging van persone wat kragtens die wet op maatskappye gelikwider kan word;

„vervreemding” of „vervreem” beteken ’n oordrag of afstand van regte op goed en omvat ’n verkoop, huur, verband, pand, lewering, betaling, kwytstelling, skikking, skenking of ’n kontrak in die sin, maar omvat nie ’n vervreemding tot voldoening aan ’n order van die hof nie;

„vrye oorskot”, met betrekking tot ’n insolvente boedel, beteken daardie deel van die boedel wat nie aan ’n preferente reg onderhewig is nie op grond van ’n spesiale verband, stilswygende hipoteek, pand of retensiereg: Met dien verstande dat by die toepassing van hierdie omskrywing die uitdrukking „spesiale verband”, wel insluit ’n notariële verband, wat volgens artikel *een* van die Wet op Notariële Verbande (Natal) 1932 (Wet No. 18 van 1932), gepasseer en geregistreer is, maar nie insluit nie ’n ander notariële verband wat na die eerste dag van Oktober 1926

which purports to pledge as security for a debt, movable property which has not been delivered to and retained by the pledgee;

- “good faith”, in relation to the disposition of property, means the absence of any intention to prejudice creditors in obtaining payment of their claims or to prefer one creditor above another;
- “immovable property” means land and every right or interest in land or minerals which is registrable in any office in the Union intended for the registration of title to land or the right to mine;
- “insolvent” when used as a noun, means a debtor whose estate is under sequestration and includes such a debtor before the sequestration of his estate, according to the context;
- “insolvent estate” means an estate under sequestration;
- “magistrate” includes an additional magistrate and an assistant magistrate;
- “Master” in relation to any matter, means the Master of the Supreme Court within whose area of jurisdiction that matter is to be dealt with and includes an Assistant Master;
- “messenger” means a messenger of a magistrate’s court and includes a deputy-messenger;
- “movable property” means every kind of property and every right or interest which is not immovable property;
- “preference”, in relation to any claim against an insolvent estate, means the right to payment of that claim out of the assets of the estate in preference to other claims; and “preferent” has a corresponding meaning;
- “property” means movable or immovable property wherever situate within the Union, and includes contingent interests in property other than the contingent interests of a *fidei commissary* heir or legatee;
- “security”, in relation to the claim of a creditor of an insolvent estate, means property of that estate over which the creditor has a preferent right by virtue of any special mortgage, landlord’s legal hypothec, pledge or right of retention;
- “sequestration order” means any order of Court whereby an estate is sequestrated and includes a provisional order, when it has not been set aside;
- “sheriff” includes a deputy sheriff;
- “trader” means any person who carries on any trade, business, industry or undertaking in which property is sold, or is bought, exchanged or manufactured for purpose of sale or exchange, or in which building operations of whatever nature are performed, or an object whereof is public entertainment, or who carries on the business of an hotel keeper or boarding-house keeper, or who acts as a broker or agent of any person in the sale or purchase of any property or in the letting or hiring of immovable property; and any person shall be deemed to be a trader for the purpose of this Act (except for the purposes of sub-section (10) of section *twenty-one*) unless it is proved that he is not a trader as hereinbefore defined: Provided that if any person carries on the trade, business, industry or undertaking of selling property which he produced (either personally or through any servant) by means of farming operations, the provisions of this Act relating to traders only shall not apply to him in connection with his said trade, business, industry or undertaking;
- “trustee” means the trustee of an estate under sequestration, and includes a provisional trustee.

Petition for acceptance of surrender of estate.

3. (1) An insolvent debtor or his agent or a person entrusted with the administration of the estate of a deceased insolvent debtor or of an insolvent debtor who is incapable of managing his own affairs, may petition the Court for the acceptance of the surrender of the debtor’s estate for the benefit of his creditors.

(2) All the members of a partnership (other than partners *en commandite* or special partners as defined in the Special Partnerships Limited Liability Act, 1861 (Act No. 24 of 1861) of the Cape of Good Hope or in Law No. 1 of 1865 of Natal) who reside in the Union, or their agent, may petition the Court for the acceptance of the surrender of the estate of the partnership and of the estate of each such member.

- verly is en luidens sy inhoud as sekuriteit vir 'n skuld verpand roerende goed wat nie aan die pandhouer oorhandig is en deur hom in besit gehou word nie ;
- „te goeder trou”, met betrekking tot die vervreemding van goed, beteken sonder bedoeling om skuldeisers by die verkryging van betaling van hulle vorderings te kort te doen of om een skuldeiser bo 'n ander voor te trek ;
- „onroerende goed”, beteken grond en elke reg op grond of minerale wat geregistreer kan word in 'n kantoor in die Unie wat bestem is vir die registrasie van grondtitels of die reg om te myn ;
- „insolvent”, indien as 'n selfstandige naamwoord gebesig, beteken 'n skuldenaar wie se boedel onder sekwestrasie is en omvat, na gelang van die samehang, ook so 'n skuldenaar voor die sekwestrasie van sy boedel ;
- „insolvente boedel”, beteken 'n boedel wat onder sekwestrasie is ;
- „magistraat”, omvat 'n addisionele magistraat en 'n assistent-magistraat ;
- „Meester”, met betrekking tot een of ander aangeleentheid, beteken die Meester van die Hooggeregshof binne wie se ampsgebied daardie aangeleentheid behandel moet word en omvat 'n Assistent-Meester ;
- „geregsbode”, beteken 'n geregsbode van 'n magistraatshof en omvat 'n onder-geregsbode ;
- „roerende goed”, beteken elke soort goed en elke reg wat nie onroerende goed is nie ;
- „preferensie”, met betrekking tot 'n vordering teen 'n insolvente boedel, beteken die reg op betaling van daardie vordering uit die bate van die boedel met voorkeur bo ander vorderings, en „preferent” het 'n daarmee ooreenstemmende betekenis ;
- „goed”, beteken roerende goed of onroerende goed, waar ook al in die Unie geleë en omvat voorwaardelike regte op goed met uitsondering van die voorwaardelike regte van 'n fideikommissaire erfgenaam of legataris ;
- „sekuriteit”, met betrekking tot die vordering van 'n skuldeiser van 'n insolvente boedel, beteken goed van daardie boedel waarop die skuldeiser 'n preferente reg het kragtens 'n spesiale verband, stilswygende hipoteek van 'n verhuurder, pand of retensiereg ;
- „sekwestrasiereorder”, beteken 'n order van die hof waardeur 'n boedel gesekwestreer word en omvat 'n voorlopige order wat nie vernietig is nie ;
- „balju”, omvat 'n onderbalju ;
- „handelaar” beteken iemand wat 'n handel, besigheid, bedryf of onderneming dryf waarin goed verkoop word of gekoop, ingeruil of vervaardig word om verkoop of verruil te word of waarin bouwerk van watter aard ook al verrig word of wat openbare vermaaklikheid of onthaal beoog, of wat die besigheid van 'n hotelhouer of losieshuishouer dryf, of wat as makelaar of agent van 'n ander optree by die verkoop of koop van enige goed of by die huur of verhuur van onroerende goed ; en elkeen word by die toepassing van hierdie Wet (behalwe by die toepassing van sub-artikel (10) van artikel een-en-twintig) as 'n handelaar beskou tensy bewys word dat hy nie 'n handelaar is soos in die voorgaande omskrywe nie : Met dien verstande dat indien iemand die handel, besigheid, bedryf of onderneming dryf om goed te verkoop wat hy deur middel van boerdery geproduseer het (hetsy persoonlik of deur 'n diensbode), die bepalinge van hierdie Wet wat alleen op handelaars betrekking het, nie op hom in verband met sy genoemde handel, besigheid, bedryf of onderneming van toepassing is nie ;
- „kurator” beteken die kurator van 'n boedel wat onder sekwestrasie gesit is en omvat 'n voorlopige kurator.

3. (1) 'n Insolvente skuldenaar of sy verteenwoordiger of iemand belas met die beredding van die boedel van 'n oorlede insolvente skuldenaar of van 'n insolvente skuldenaar wat nie in staat is om sy eie sake te beheer nie, kan die hof versoek om aanname van die oorgawe van die skuldenaar se boedel ten bate van sy skuldeisers.

(2) Al die lede van 'n vennootskap (behalwe kommanditêre vennote of „special partners” soos omskrywe in die „Special Partnership Limited Liability Act, 1861” (Wet No. 24 van 1861) van die Kaap die Goeie Hoop of in Wet No. 1 van 1865 van Natal) wat in die Unie woon, of hulle verteenwoordiger, kan die hof versoek om aanname van die oorgawe van die boedel van die vennootskap en van die boedel van elke sodanige lid.

Versoek om
aanname van
boedeloorgawe.

(3) Before accepting or declining the surrender, the Court may direct the petitioner or any other person to appear and be examined before the Court.

Notice of surrender and lodging at Master's office of statement of debtor's affairs.

4. (1) Before presenting a petition mentioned in section *three* the person who intends to present the petition (in this section referred to as the petitioner) shall cause to be published in the *Gazette* and in a newspaper circulating in the district in which the debtor resides, or, if the debtor is a trader, in the district in which his principal place of business is situate, a notice of surrender in a form corresponding substantially with Form A in the First Schedule to this Act. The said notice shall be published not more than thirty days and not less than fourteen days before the date stated in the notice of surrender as the date upon which application will be made to the Court for acceptance of the surrender of the estate of the debtor.

(2) Within a period of seven days as from the date of publication of the said notice in the *Gazette*, the petitioner shall deliver or post in a registered letter a copy of the said notice to every one of the creditors of the debtor in question whose address he knows or can ascertain.

(3) The petitioner shall lodge at the office of the Master a statement in duplicate of the debtor's affairs, framed in a form corresponding substantially with Form B in the First Schedule to this Act. That statement shall contain the particulars for which provision is made in the said Form, shall comply with any requirements contained therein and shall be verified by an affidavit (which shall be free from stamp duty) in the form set forth therein.

(4) Upon receiving the said statement, the Master may direct the petitioner to cause any property set forth therein to be valued by a sworn appraiser or by any person designated by the Master for the purpose.

(5) If the debtor resides or carries on business as a trader in any district (other than the district of Wynberg, Simonstown or Bellville in the Province of the Cape of Good Hope) wherein there is no Master's office, the petitioner shall also lodge a copy of the said statement at the office of the magistrate of the district.

(6) The said statement shall be open to the inspection of any creditor of the debtor during office hours for a period of fourteen days from a date to be mentioned in the notice of surrender.

Prohibition of sale in execution of property of estate after publication of notice of surrender and appointment of *curator bonis*.

5. (1) After the publication of a notice of surrender in the *Gazette* in terms of section *four*, it shall not be lawful to sell any property of the estate in question, which has been attached under writ of execution or other process, unless the person charged with the execution of the writ or other process could not have known of the publication: Provided that the Master, if in his opinion the value of any such property does not exceed five hundred pounds, or the Court, if it exceeds that amount, may order the sale of the property attached and direct how the proceeds of the sale shall be applied.

(2) After the publication of a notice of surrender as aforesaid in the *Gazette* the Master may appoint a *curator bonis* to the debtor's estate, who shall forthwith take the estate into his custody and take over the control of any business or undertaking of the debtor, as if he were the debtor, as the Master may direct.

Acceptance by Court of surrender of estate.

6. (1) If the Court is satisfied that the provisions of section *four* have been complied with, that the estate of the debtor in question is insolvent, that he owns realizable property of a sufficient value to defray all costs of the sequestration which will in terms of this Act be payable out of the free residue of his estate and that it will be to the advantage of creditors of the debtor if his estate is sequestrated, it may accept the surrender of the debtor's estate and make an order sequestrating that estate.

(2) If the Court does not accept the surrender or if the notice of surrender is withdrawn in terms of section *seven*, or if the petitioner fails to make the application for the acceptance of the surrender of the debtor's estate before the expiration of a period of fourteen days as from the date specified in the notice of surrender, as the date upon which application will be made to the Court for the acceptance of the surrender of the debtor's estate, the notice of surrender shall lapse and if a

(3) Alvorens die boedeloorgawe aan te neem of af te wys, kan die hof die versoeker of 'n ander persoon gelas om te verskyn en in die hof ondervra te word.

4. (1) Alvorens 'n versoek bedoel in artikel drie in te dien, moet die persoon wat voornemens is om die versoek in te dien (in hierdie artikel die versoeker genoem), in die *Staatskoerant* en in 'n nuusblad in omloop in die distrik waarin die skuldenaar woon of, as die skuldenaar 'n handelaar is, in die distrik waarin sy vernaamste besigheidsplek geleë is, 'n kennisgewing van boedeloorgawe laat publiseer in 'n vorm wat in hoofsaak ooreenkom met Formulier A in die Eerste Bylae tot hierdie Wet. Bedoelde kennisgewing moet gepubliseer word nie meer as dertig dae en nie minder as veertien dae nie voor die dag in die kennisgewing van boedeloorgawe vermeld as die dag waarop in die hof aansoek gedaan sal word om aanname van die oorgawe van die boedel van die skuldenaar.

Kennisgewing van oorgawe en indiening op Meesterskantoor van staat van skuldenaar se sake.

(2) Binne 'n tydperk van sewe dae vanaf die datum van publikasie van bedoelde kennisgewing in die *Staatskoerant*, moet die versoeker 'n afskrif van bedoelde kennisgewing oorhandig of per geregistreerde brief deur die pos stuur aan elkeen van die skuldeisers van die betrokke skuldenaar wie se adres hy weet of kan verkry.

(3) Die versoeker moet by die kantoor van die Meester twee eksemplare indien van 'n vermoëstaat van die skuldenaar opgestel in 'n vorm wat in hoofsaak ooreenkom met Formulier B in die Eerste Bylae tot hierdie Wet. Daardie staat moet die gegewens bevat wat in daardie formulier vermeld word, moet voldoen aan alle daarin voorkomende voorskrifte en moet bevestig wees deur 'n beëdigde verklaring (wat vry van seëlreg is) in die daarin aangegewe vorm.

(4) Na ontvangs van bedoelde staat kan die Meester die versoeker gelas om een of ander daarin aangegewe goed te laat waardeur deur 'n beëdigde taksateur of deur iemand wat die Meester daarvoor aangewys het.

(5) As die skuldenaar woon of as 'n handelaar besigheid dryf in 'n ander distrik as Wynberg, Simonstad of Bellville in die Provinsie Kaap die Gocie Hoop, waarin daar geen Meesterskantoor is nie, dan moet die versoeker ook een eksemplaar van bedoelde staat by die kantoor van die magistraat van die distrik indien.

(6) Bedoelde staat is veertien dae lank vanaf 'n dag wat in die kennisgewing van boedeloorgawe aangegee moet word, gedurende kantoorure aan elke skuldeiser van die skuldenaar ter insage beskikbaar.

5. (1) Na die publikasie in die *Staatskoerant*, ingevolge artikel vier, van 'n kennisgewing van boedeloorgawe, mag geen goed van die betrokke boedel wat in beslag geneem is kragtens 'n lasbrief tot eksekusie of 'n ander prosesstuk, verkoop word nie, tensy die persoon belas met die tenuitvoerlegging van die lasbrief of ander prosesstuk nie van die publikasie kon geweet het nie: Met dien verstande dat die Meester, as die waarde van sodanige goed na sy mening nie meer as vyfhonderd pond bedra nie, of die hof, as die waarde meer bedra, die verkoop van die in beslag genome goed kan gelas en kan beveel hoe die oprings van die verkoping bestee moet word.

Staking van eksekutoriale verkoping van goed van boedel na publikasie van kennisgewing van boedeloorgawe. Aanstelling van *curator bonis*.

(2) Na die publikasie in die *Staatskoerant* van 'n kennisgewing van boedeloorgawe, soas voormeld, kan die Meester 'n *curator bonis* oor die skuldenaar se boedel aanstel. Daarop neem die *curator bonis* die boedel onverwyld in sy bewaring en neem die beheer oor van elke besigheid of onderneming van die skuldenaar, asof hy die skuldenaar was, soas die Meester mog voorskryf.

6. (1) As die hof oortuig is dat aan die bepalinge van artikel vier voldoen is, dat die boedel van die betrokke skuldenaar insolvent is, dat hy goed wat te gelde gemaak kan word besit, van 'n voldoende waarde om al die koste van die sekwestrasie te dek wat volgens hierdie Wet uit die vrye oorskot van sy boedel sal betaal moet word en dat dit tot voordeel van skuldeisers van die skuldenaar sal strek as sy boedel gesekwestreer word, dan kan die hof die oorgawe van die skuldenaar se boedel aanneem en 'n order uitvaardig waardeur daardie boedel gesekwestreer word.

Aanname deur hof van boedeloorgawe.

(2) As die hof die boedeloorgawe nie aanneem nie of as die kennisgewing van boedeloorgawe volgens artikel sewe ingetrek word of as die versoeker in gebreke bly om die aanname van die oorgawe van die skuldenaar se boedel te versoek voor verloop van 'n tydperk van veertien dae vanaf die dag in die kennisgewing van boedeloorgawe aangegee as die dag waarop die hof versoek sal word om die oorgawe van die boedel van die skuldenaar aan te neem, dan verval die kennisgewing van

curator bonis was appointed, the estate shall be restored to the debtor as soon as the Master is satisfied that sufficient provision has been made for the payment of all costs incurred under sub-section (2) of section *five*.

Withdrawal of notice of surrender.

7. (1) A notice of surrender published in the *Gazette* may not be withdrawn without the written consent of the Master.

(2) A person who has published a notice of surrender in the *Gazette* may apply to the Master for his consent to the withdrawal of the notice, and if it appears to the Master that the notice was published in good faith and that there is good cause for its withdrawal, he shall give his written consent thereto. Upon the publication, at the expense of the applicant, of a notice of withdrawal and of the Master's consent thereto, in the *Gazette* and in the newspaper in which the notice of surrender appeared, the notice of surrender shall be deemed to have been withdrawn.

Acts of insolvency.

8. A debtor commits an act of insolvency—

- (a) if he leaves the Union or being out of the Union remains absent therefrom, or departs from his dwelling or otherwise absents himself, with intent by so doing to evade or delay the payment of his debts;
- (b) if a Court has given judgment against him and he fails, upon the demand of the officer whose duty it is to execute that judgment, to satisfy it or to indicate to that officer disposable property sufficient to satisfy it, or if it appears from the return made by that officer that he has not found sufficient disposable property to satisfy the judgment;
- (c) if he makes or attempts to make any disposition of any of his property which has or would have the effect of prejudicing his creditors or of preferring one creditor above another;
- (d) if he removes or attempts to remove any of his property with intent to prejudice his creditors or to prefer one creditor above another;
- (e) if he makes or offers to make any arrangement with any of his creditors for releasing him wholly or partially from his debts;
- (f) if, after having published a notice of surrender of his estate which has not lapsed or been withdrawn in terms of section *six* or *seven*, he fails to comply with the requirements of sub-section (3) of section *four* or lodges, in terms of that sub-section, a statement which is incorrect or incomplete in any material respect or fails to apply for the acceptance of the surrender of his estate on the date mentioned in the aforesaid notice as the date on which such application is to be made;
- (g) if he gives notice in writing to any one of his creditors that he is unable to pay any of his debts;
- (h) if, being a trader, he gives notice in the *Gazette* in terms of sub-section (1) of section *thirty-four*, and is thereafter unable to pay all his debts.

Petition for sequestration of estate.

9. (1) A creditor (or his agent) who has a liquidated claim for not less than fifty pounds, or two or more creditors (or their agent) who in the aggregate have liquidated claims for not less than one hundred pounds against a debtor who has committed an act of insolvency, may petition the Court for the sequestration of the estate of the debtor.

(2) A liquidated claim which has accrued but which is not yet due on the date of hearing of the petition, shall be reckoned as a liquidated claim for the purposes of sub-section (1).

(3) Such a petition shall set forth the amount, cause and nature of the claim in question, shall state whether the claim is or is not secured and, if it is, the nature and value of the security, and shall set forth the debtor's act of insolvency upon which the petition is based. The facts stated in the petition shall be confirmed by affidavit and the petition shall be accompanied by a certificate of the Master or a magistrate that sufficient security has been given for the payment of all fees and charges necessary for the prosecution of all sequestration proceedings and of all costs of administering the estate until a trustee has been appointed, or if no trustee is appointed, of all fees and charges necessary for the discharge of the estate from sequestration.

boedeloorgawe en as 'n *curator bonis* aangestel is, dan word die boedel aan die skuldenaar teruggegee sodra die Meester oortuig is dat voldoende voorsiening gemaak is vir die betaling van al die koste wat kragtens sub-artikel (2) van artikel vyf gemaak is.

7. (1) 'n Kennisgewing van boedeloorgawe wat in die *Staatskoerant* gepubliseer is, kan nie sonder skriftelike toestemming van die Meester ingetrek word nie. Intrekking van kennisgewing van boedeloorgawe.

(2) Iemand wat 'n kennisgewing van boedeloorgawe in die *Staatskoerant* gepubliseer het, kan die Meester versoek om sy toestemming tot intrekking van die kennisgewing en as dit aan die Meester voorkom dat die kennisgewing te goeder trou gepubliseer is en dat daar 'n gegronde rede vir sy intrekking bestaan, dan gee hy sy skriftelike toestemming daartoe. Na die publikasie, op koste van die versoeker, van 'n kennisgewing van intrekking en van die Meester se toestemming daartoe, in die *Staatskoerant* en in die nuusblad waarin die kennisgewing van boedeloorgawe verskyn het, word die kennisgewing van boedeloorgawe geag ingetrek te wees.

8. 'n Skuldenaar begaan 'n daad van insolvensie—

Dade van insolvensie.

- (a) as hy die Unie verlaat of as hy buite die Unie is en daaruit wegbly, of as hy van sy woning vertrek of andersins weggaan met die bedoeling om daardeur die betaling van sy skulde te ontduik of te vertraag;
- (b) as 'n hof 'n vonnis teen hom gevel het en hy in gebreke bly om, op verlanke van die beampte belas met die tenuitvoerlegging van die vonnis, aan die vonnis te voldoen of om aan daardie beampte vervreembare goed aan te wys wat voldoende is om aan die vonnis te voldoen of as uit die relaas van daardie beampte blyk dat hy nie genoeg vervreembare goed gevind het nie om aan die vonnis te voldoen;
- (c) as hy sy goed op so 'n wyse vervreem of poog te vervreem dat sy skuldeisers daardeur benadeel word of sou word of aan een skuldeiser daardeur bo 'n ander voorkeur verleen word of sou word;
- (d) as hy van sy goed wegvoer of poog weg te voer met die bedoeling om sy skuldeisers te benadeel of om een skuldeiser bo 'n ander voor te trek;
- (e) as hy 'n ooreenkoms met een of meer van sy skuldeisers aangaan of so 'n ooreenkoms aan hulle voorstel dat hulle hom sy skulde geheel of gedeeltelik kwyt-skeld;
- (f) as hy, nadat hy 'n kennisgewing van oorgawe van sy boedel gepubliseer het, wat nie volgens artikel ses of sewe verval het of ingetrek is nie, in gebreke bly om aan die vereistes van sub-artikel (3) van artikel vier te voldoen of ingevolge daardie sub-artikel 'n staat indien wat in een of ander belangrike opsig onjuis of onvolledig is, of in gebreke bly om die aanname van die oorgawe van sy boedel te versoek op die dag in voormelde kennisgewing aangegee as die dag waarop die versoek sal geskied;
- (g) as hy aan enigeen van sy skuldeisers skriftelik kennis gee dat hy nie in staat is om sy skulde te betaal nie;
- (h) as hy 'n handelaar is en in die *Staatskoerant* volgens sub-artikel (1) van artikel vier-en-dertig kennis gee en hy daarna nie in staat is om al sy skulde te betaal nie.

9. (1) 'n Skuldeiser (of sy verteenwoordiger) wat 'n gelikwideerde vordering van nie minder as vyftig pond of twee of meer skuldeisers (of hulle verteenwoordiger) wat gesamentlik gelikwideerde vorderings van nie minder as honderd pond het teen 'n skuldenaar wat 'n daad van insolvensie begaan het, kan die hof versoek om die sekwestrasie van die boedel van die skuldenaar. Versoek tot sekwestrasie van boedel.

(2) 'n Gelikwideerde vordering wat ontstaan het maar wat nog nie invorderbaar is nie op die dag van verhoor van die versoek, word by die toepassing van sub-artikel (1) as 'n gelikwideerde vordering aangemerkt.

(3) So 'n versoekskrif moet vermeld die bedrag, regsgrond en aard van die betrokke vordering en of al dan nie sekuriteit daarvoor gegee is en indien wel, die aard en waarde van die sekuriteit, en moet aangee die skuldenaar se daad van insolvensie waarop die versoek steun. Die bewerings in die versoekskrif moet deur 'n beëdigde verklaring bevestig word en die versoekskrif moet vergesel gaan van 'n sertifikaat van die Meester of 'n magistraat dat voldoende sekuriteit gestel is vir die betaling van alle fooie en koste wat nodig is om alle sekwestrasieverrigtings te volvoer en van alle koste van beredding van die boedel totdat 'n kurator aangestel is, of as geen kurator aangestel word nie, van alle fooie en koste wat nodig is om die boedel van die sekwestrasie te onthef.

(4) Before such a petition is presented to the Court, a copy of the petition and of every affidavit confirming the facts stated in the petition shall be lodged with the Master, or, if there is no Master at the seat of the Court, with an officer in the public service designated for that purpose by the Master by notice in the *Gazette*, and the Master or such officer may report to the Court any facts ascertained by him which would appear to him to justify the Court in postponing the hearing or in dismissing the petition. The Master or the said officer shall transmit a copy of that report to the petitioning creditor or his agent.

(5) The Court, on consideration of the petition, the Master's or the said officer's report thereon and of any further affidavit which the petitioning creditor may have submitted in answer to that report, may act in terms of section *ten* or may dismiss the petition, or postpone its hearing or make such other order in the matter as in the circumstances appears to be just.

Provisional
sequestration.

10. If the Court to which the petition for the sequestration of the estate of a debtor has been presented is of the opinion that *prima facie*—

- (a) the petitioning creditor has established against the debtor a claim such as is mentioned in sub-section (1) of section *nine*; and
- (b) the debtor has committed an act of insolvency or is insolvent; and
- (c) there is reason to believe that it will be to the advantage of creditors of the debtor if his estate is sequestrated,

it may make an order sequestrating the estate of the debtor provisionally.

Service of rule *nisi*
upon the debtor.

11. (1) If the Court sequestrates the estate of a debtor provisionally it shall simultaneously grant a rule *nisi* calling upon the debtor upon a day mentioned in the rule to appear and to show cause why his estate should not be sequestrated finally.

(2) If the debtor has been absent during a period of twenty-one days from his usual place of residence and of his business (if any) within the Union, the Court may direct that it shall be sufficient service of that rule if a copy thereof is affixed to or near the outer door of the buildings where the Court sits and published in the *Gazette*, or may direct some other mode of service.

(3) Upon the application of the debtor the Court may anticipate the return day for the purpose of discharging the order of provisional sequestration if twenty-four hours' notice of such application has been given to the petitioning creditor.

Final sequestration
or dismissal of
petition for
sequestration.

12. (1) If at the hearing pursuant to the aforesaid rule *nisi* the Court is satisfied that—

- (a) the petitioning creditor has established against the debtor a claim such as is mentioned in sub-section (1) of section *nine*; and
- (b) the debtor has committed an act of insolvency or is insolvent; and
- (c) there is reason to believe that it will be to the advantage of creditors of the debtor if his estate is sequestrated,

it may sequestrate the estate of the debtor.

(2) If at such hearing the Court is not so satisfied, it shall dismiss the petition for the sequestration of the estate of the debtor and set aside the order of provisional sequestration or require further proof of the matters set forth in the petition and postpone the hearing for any reasonable period but not *sine die*.

Sequestration of
partnership estate.

13. If the Court sequestrates the estate of a partnership (whether provisionally or finally), it shall simultaneously sequestrate the estate of every member of that partnership other than a partner *en commandite* or a special partner as defined in the Special Partnerships' Limited Liability Act, 1861 (Act No. 24 of 1861) of the Cape of Good Hope or in Law No. 1 of 1865 of Natal, who has not held himself out as an ordinary or general partner of the partnership in question: Provided that if a partner has undertaken to pay the debts of the partnership within a period determined by the Court and has given security for such payment to the satisfaction of the registrar, the separate estate of that partner shall not be sequestrated by reason only of the sequestration of the estate of the partnership.

(4) Voordat so 'n versoekskrif aan die hof voorgelê word, moet 'n afskrif van die versoekskrif en van elke beëdigde verklaring tot bevestiging van die bewerings in die versoekskrif ingedien word by die Meester of as daar geen Meester is nie waar die hof sy setel het, dan by 'n amptenaar in die staatsdiens wat die Meester daarvoor by kennisgewing in die *Staatskoerant* aangewys het, en die Meester of bedoelde amptenaar kan aan die hof verslag doen van alle feite wat hy te wete gekom het wat volgens sy opvatting die hof sou regverdig om die verhoor uit te stel of om die versoek af te wys. Die Meester of bedoelde amptenaar moet 'n afskrif van daardie verslag aan die petitionerende skuldeiser of sy verteenwoordiger stuur.

(5) Na oorweging van die versoek, die verslag van die Meester of van bedoelde amptenaar daaromtrent en van 'n verdere beëdigde verklaring wat die petitionerende skuldeiser as antwoord op die verslag mag ingedien het, kan die hof handel volgens artikel *tien* of die versoek afwys of verhoor daarvan uitstel of so 'n ander order in die saak uitvaardig as wat hy onder die omstandighede billik ag.

10. As die hof waaraan 'n versoekskrif tot sekwestrasie van die boedel van 'n skuldenaar voorgelê is, van oordeel is dat *prima facie*—

Voorlopige sekwestrasie.

- (a) die petitionerende skuldeiser so 'n vordering as bedoel in sub-artikel (1) van artikel *nege* teen die skuldenaar bewys het; en
- (b) die skuldenaar 'n daad van insolvensie begaan het of insolvent is; en
- (c) daar rede bestaan om aan te neem dat dit tot voordeel van die skuldeisers van die skuldenaar sal strek as sy boedel gesekwestreer word;

dan kan die hof 'n order uitvaardig wat die boedel van die skuldenaar voorlopig sekwestreer.

11. (1) As die hof die boedel van 'n skuldenaar voorlopig sekwestreer vaardig hy gelyktydig 'n bevel *nisi* uit waardeur die skuldenaar aangesê word om op 'n dag, in die bevel aangegee, te verskyn en redes aan te toon waarom sy boedel nie finaal gesekwestreer behoort te word nie.

Diening van bevel *nisi* op skuldenaar.

(2) As die skuldenaar gedurende 'n tydperk van een-en-twintig dae van sy gewone woonplek en van sy besigheidsplek (as hy een het) in die Unie afwesig was, dan kan die hof gelas dat bedoelde bevel geldig gedien kan word deur 'n afskrif daarvan op of in die nabyheid van die buitendeur van die gebou waarin die hof sit, aan te heg en in die *Staatskoerant* te publiseer, of 'n ander wyse van diening voorskrywe.

(3) Op versoek van die skuldenaar kan die hof die dienende dag vervroeg ten einde die order van voorlopige sekwestrasie in te trek, mits aan die petitionerende skuldeiser vier-en-twintig uur vooraf van die versoek kennis gegee is.

12. (1) As die hof by die verhoor na aanleiding van voormelde bevel *nisi* oortuig is dat—

Finale sekwestrasie of afwysing van versoek om sekwestrasie.

- (a) die petitionerende skuldeiser 'n vordering soas bedoel in sub-artikel (1) van artikel *nege* teen die skuldenaar bewys het; en
- (b) die skuldenaar 'n daad van insolvensie begaan het of insolvent is; en
- (c) daar rede bestaan om aan te neem dat dit tot voordeel van skuldeisers van die skuldenaar sal strek as sy boedel gesekwestreer word,

dan kan die hof die skuldenaar se boedel sekwestreer.

(2) As die hof by bedoelde verhoor nie soas voormeld oortuig is nie, dan wys hy die versoek tot sekwestrasie van die skuldenaar se boedel af en vernietig die order van voorlopige sekwestrasie of vereis verdere bewys van die bewerings wat die versoek bevat en stel die verhoor vir 'n redelike termyn uit, maar nie *sine die* nie.

13. As die hof die boedel van 'n vennootskap sekwestreer (hetsy voorlopig of finaal), sekwestreer hy gelyktydig die boedel van elke lid van daardie vennootskap behalwe 'n kommanditêre vennoot of 'n „special partner” soas omskrywe in die „Special Partnerships Limited Liability Act, 1861” (Wet No. 24 van 1861) van die Kaap die Goeie Hoop of in Wet No. 1 van 1865 van Natal, wat homself nie voorgedoen het as 'n gewone of algemene vennoot van die betrokke vennootskap nie: Met dien verstande dat as 'n vennoot onderneem het om die skulde van die vennootskap binne 'n deur die hof vasgestelde termyn te betaal en vir sodanige betaling sekuriteit gestel het waarmee die registrateur genoeë neem, die afsonderlike boedel van daardie vennoot nie gesekwestreer word nie alleen omdat die boedel van die vennootskap gesekwestreer word.

Sekwestrasie van boedel van vennootskap.

Petitioning creditor to prosecute sequestration proceedings until trustee appointed.

14. (1) The creditor upon whose petition a sequestration order has been made shall, at his own cost, prosecute all the proceedings in the sequestration until a provisional trustee has been appointed or if no provisional trustee has been appointed until a trustee has been appointed.

(2) The trustee shall pay to the said creditor out of the first funds of the estate available for that purpose under section *ninety-seven* his costs, taxed according to the tariff applicable in the Court which made the sequestration order.

(3) In the event of a contribution by creditors under section *one hundred and six*, the petitioning creditor, whether or not he has proved a claim against the estate in terms of section *forty-four*, shall be liable to contribute not less than he would have had to contribute if he had proved the claim stated in his petition.

Compensation to debtor if petition malicious or vexatious.

15. Whenever the Court is satisfied that a petition for the sequestration of a debtor's estate is malicious or vexatious, the Court may allow the debtor forthwith to prove any damage which he may have sustained by reason of the provisional sequestration of his estate and award him such compensation as it may deem fit.

Insolvent must deliver his business records and lodge statement of his affairs with Master.

16. (1) A final order of sequestration shall be served upon the insolvent concerned in manner provided by the rules of the Court which made that order, and when the order has been served upon the insolvent, he shall—

(a) forthwith deliver to the officer who served the order all records relating to his affairs if they have not yet been taken into custody by the deputy-sheriff in terms of paragraph (a) of sub-section (1) of section *nineteen*; and

(b) within seven days of such service lodge with the Master a statement of his affairs, in duplicate, framed in a form corresponding substantially with Form B of the First Schedule to this Act, containing the particulars for which provision is made in the said Form and verified by an affidavit (which shall be free from stamp duty) in the form set forth therein.

(2) The officer to whom the records of the insolvent are delivered in terms of paragraph (a) of sub-section (1) shall issue a detailed receipt therefor.

(3) In the statement referred to in paragraph (b) of sub-section (1) any merchandise mentioned therein shall be valued at its cost price or at its market value, at the time of the making of the said affidavit, whichever is the lower.

(4) If the Master is satisfied that the insolvent was unable to prepare, without assistance, such a statement which he lodged as aforesaid, the person who assisted the insolvent with the preparation of the statement shall be entitled to a reasonable fee, to be determined by the Master, which shall be deemed to be part of the costs of the sequestration.

Notice of sequestration.

17. (1) The registrar shall without delay transmit—

(a) one original of every sequestration order and of every order relating to an insolvent estate or to a trustee or to an insolvent, made by the Court, to the Master;

(b) one original of every provisional sequestration order or if a final sequestration order was not preceded by a provisional sequestration order, then of that final order, and of every order amending or setting aside any prior order so transmitted, which was made by the Court to—

(i) the deputy-sheriff of every district in which it appears that the insolvent resides or owns property;

(ii) every officer charged with the registration of title to any immovable property in the Union;

(iii) every sheriff and every messenger who or whose deputy holds under attachment any property belonging to the insolvent estate.

(2) Every officer who has received an order transmitted to him in terms of sub-section (1) shall register it and note thereon the day and hour when it was received in his office.

(3) Upon the receipt by any officer referred to in sub-paragraph (ii) of paragraph (b) of sub-section (1) of a sequestration order he shall enter a caveat against the transfer of all immovable property or the cancellation or cession of any bond registered in the name of or belonging to the insolvent or to his or her spouse.

14. (1) Die skuldeiser op wie se versoek 'n sekwestrasie-order uitgevaardig is, moet op sy eie koste alle verrigtings in die sekwestrasie volvoer totdat 'n voorlopige kurator aangestel is of, as geen voorlopige kurator aangestel is nie, totdat 'n kurator aangestel is.

Petisionerende skuldeiser moet sekwestrasie-verrigtings volvoer tot kurator aangestel is.

(2) Die kurator moet uit die eerste gelde van die boedel wat kragtens artikel *sewen-en-negentig* daarvoor beskikbaar is, die koste van bedoelde skuldeiser, getakseer volgens die tarief wat van toepassing is in die hof wat die sekwestrasie-order uitgevaardig het, aan hom uitbetaal.

(3) In geval die skuldeisers kragtens artikel *honderd-en-ses* moet inbetaal, dan is die petisionerende skuldeiser, onverskillig of hy al dan nie volgens artikel *vier-en-veertig* 'n vordering teen die boedel bewys het, verplig om nie minder in te betaal nie as hy sou moes inbetaal het as hy die vordering wat in sy versoekskrif vermeld word, bewys had.

15. Wanneer die hof van oordeel is dat die versoek om sekwestrasie van 'n skuldenaar se boedel kwaadwillig of vexatoor is, dan kan die hof die skuldenaar veroorloof om dadelik enige skade te bewys wat hy mag gely het as gevolg van die voorlopige sekwestrasie van sy boedel en aan hom die skadevergoeding toestaan wat die hof billik ag.

Skadevergoeding aan skuldenaar as versoek kwaadwillig of vexatoor is.

16. (1) 'n Finale sekwestrasie-order word op die betrokke insolvent gedien volgens voorskrif van die reëls van die hof wat die order uitgevaardig het en wanneer die order op die insolvent gedien is, moet hy—

Insolvent moet sy besigheids-papiere afgee en staat van sy sake by Meester indien.

(a) dadelik alle stukke wat op sy sake betrekking het, oorhandig aan die amptenaar wat die order gedien het, as daardie stukke nie reeds deur die onderbalju volgens paragraaf (a) van sub-artikel (1) van artikel *negentien* in bewaring geneem is nie; en

(b) binne sewe dae na die diening by die Meester twee eksemplare indien van 'n vermoëstaat, opgemaak in 'n vorm wat in hoofsaak ooreenkom met Formulier B van die Eerste Bylae tot hierdie Wet, waarin aangegee word die gegewens in daardie formulier vermeld, en bevestig deur 'n beëdigde verklaring (wat vry van seëlreg is) in die daarin aangegewe vorm.

(2) Die amptenaar aan wie die stukke van die insolvent volgens paragraaf (a) van sub-artikel (1) oorhandig word, moet 'n gespesifiseerde kwitansie daarvoor gee.

(3) In die staat bedoel in paragraaf (b) van sub-artikel (1) moet alle daarin vermelde handelsware gewaardeer word teen hulle kosprys of teen hulle markwaarde op die tydstip wanneer die beëdigde verklaring afgelê word, na gelang die een of die ander laer is.

(4) As die Meester oortuig is dat die insolvent nie in staat was om die vermoëstaat wat hy soas voormeld ingedien het, sonder hulp op te stel nie, dan is die persoon wat die insolvent gehelp het om die vermoëstaat op te stel, geregtig op 'n redelike deur die Meester vas te stelle fooi, wat beskou word as deel van die koste van die sekwestrasie.

17. (1) Die griffier stuur onverwyld—

Kennisgewing van sekwestrasie.

(a) een eksemplaar van elke sekwestrasie-order en van elke order aangaande 'n insolvente boedel of 'n kurator of 'n insolvent, wat die hof uitgevaardig het, aan die Meester;

(b) een eksemplaar van elke voorlopige sekwestrasie-order of as 'n finale sekwestrasie-order uitgevaardig is sonder voorafgaande voorlopige sekwestrasie-order, dan van daardie finale order, en van elke order tot wysiging of vernietiging van 'n vorige aldus ingestuurde order, wat die hof uitgevaardig het, aan—

(i) die onderbalju van elke distrik waarin die insolvent blykbaar woon of goed besit;

(ii) elke amptenaar belas met die registrasie van titels van onroerende goed in die Unie;

(iii) elke balju en elke geregsbode wat of wie se ondergeskikte goed, wat aan die insolvente boedel behoort, onder beslag in sy beswaring het.

(2) Elke amptenaar wat 'n order ontvang het wat aan hom ingevolge sub-artikel (1) gestuur is, moet dit registreer en daarop aantekene die dag en uur wanneer dit in sy kantoor ontvang is.

(3) Wanneer 'n amptenaar bedoel in sub-paragraaf (ii) van paragraaf (b) van sub-artikel (1) 'n sekwestrasie-order ontvang het, moet hy 'n caveat aantekene teen die transport van alle onroerende goed of teen die rojering of cessie van elke verband wat op naam van die insolvent of sy vrou of haar man geregistreer is of aan hom of haar behoort.

(4) When the Master has received a sequestration order he shall give notice in the *Gazette* of such sequestration.

Appointment of
provisional trustee
by Master.

18. (1) As soon as an estate has been sequestrated (whether provisionally or finally) or when a person appointed as trustee ceases to be trustee or to function as such, the Master may appoint a provisional trustee to the estate in question who shall give security to the satisfaction of the Master for the proper performance of his duties as provisional trustee and shall hold office until the appointment of a trustee.

(2) At any time before the first meeting of the creditors of an insolvent estate in terms of section *forty*, the Master may, subject to the provisions of sub-section (3) of this section, give such directions to the provisional trustee as could be given to a trustee by the creditors at a meeting of creditors.

(3) A provisional trustee shall have the powers and the duties of a trustee, as provided in this Act, except that without the authority of the Court or for the purpose of obtaining such authority he shall not bring or defend any legal proceedings and that without the authority of the Court or Master he shall not sell any property belonging to the estate in question.

(4) When a meeting of creditors for the election of a trustee has been held in terms of section *forty* and no trustee has been elected, and the Master has appointed a provisional trustee in the estate in question, the Master shall appoint him as trustee on his finding such additional security as the Master may have required.

Attachment of
property by
deputy sheriff.

19. (1) As soon as a deputy-sheriff has received a sequestration order he shall attach, as hereinafter provided and make an inventory of the movable property of the insolvent estate which is in his district and is capable of manual delivery and not in the possession of a person who claims to be entitled to retain it under a right of pledge or a right of retention or under attachment by a messenger, that is to say—

(a) he shall take into his own custody all books of account, invoices, vouchers, business correspondence, cash, share certificates, bonds, bills of exchange, promissory notes, and other securities, and remit all such cash to the Master;

(b) he shall leave movable property other than animals in a room or other suitable place properly sealed up or appoint some suitable person to hold any movable property in his custody;

(c) he shall hand to the person so appointed a copy of the inventory, with a notice that the property has been attached by virtue of a sequestration order. That notice shall contain a statement of the offence constituted by section *one hundred and forty-two* and the penalty provided therefor.

(2) Any person interested in the insolvent estate or in the property attached may be present or may authorize another person to be present when the deputy-sheriff is making his inventory.

(3) Immediately after effecting the attachment the deputy-sheriff shall report to the Master in writing the fact of the attachment. He shall mention in his report any property which to his knowledge is in the lawful possession of a pledgee or of a person who is entitled to retain it by virtue of a right of retention, and he shall transmit with the report a copy of his inventory.

(4) A messenger shall transmit to the Master without delay an inventory of all property attached by him which he knows to belong to an insolvent estate.

(5) The deputy-sheriff shall be entitled to fees taxed by the Master according to tariff A in the Second Schedule to this Act and the rules for the construction of that tariff.

Effect of seques-
tration on
insolvent's
property.

20. (1) The effect of the sequestration of the estate of an insolvent shall be—

(a) to divest the insolvent of his estate and to vest it in the Master until a trustee has been appointed, and, upon the appointment of a trustee, to vest the estate in him;

(b) to stay, until the appointment of a trustee, any civil proceedings instituted by or against the insolvent save such proceedings as may, in terms of section *twenty-three*, be instituted by the insolvent for his own benefit or be instituted against the insolvent: Provided that if any claim which formed the subject of

(4) Wanneer die Meester 'n sekwestrasie-order ontvang het, moet hy van daardie sekwestrasie in die *Staatskoerant* kennis gee.

18. (1) Sodra 'n boedel gesekwestreer is (hetsy voorlopig of finaal) of wanneer iemand wat as kurator aangestel is, ophou om kurator te wees of om as sodanig op te tree, dan kan die Meester 'n voorlopige kurator vir die betrokke boedel aanstel, wat sekuriteit moet stel, waarmee die Meester genoeë neem, dat hy sy pligte as voorlopige kurator behoorlik sal nakom en wat sy betrekking beklee totdat 'n kurator aangestel word.

Aanstelling van voorlopige kurator deur Meester.

(2) Te eniger tyd voor die eerste byeenkoms van die skuldeisers van 'n insolvente boedel volgens artikel *veertig*, kan die Meester, behoudens die bepalings van sub-artikel (3) van hierdie artikel, aan die voorlopige kurator sulke voorskrifte gee as wat die skuldeisers op 'n byeenkoms van skuldeisers aan 'n kurator sou kan gee.

(3) 'n Voorlopige kurator het die bevoegdheede en verpligtings van 'n kurator, soas in hierdie Wet bepaal, behalwe dat hy sonder magtiging van die hof geen ander regsgeding mag instel of verdedig nie as om sodanige verlof te verkry, en dat hy sonder magtiging van die hof of van die Meester geen goed wat aan die betrokke boedel behoort, mag verkoop nie.

(4) Wanneer 'n byeenkoms van skuldeisers ingevolge artikel *veertig* gehou is om 'n kurator te kies en geen kurator gekies is nie, en die Meester 'n voorlopige kurator van die betrokke boedel aangestel het, dan stel die Meester hom as kurator aan nadat hy die verdere sekuriteit gestel het wat die Meester mog voorgeskryf het.

19. (1) Sodra 'n onderbalju 'n sekwestrasie-order ontvang het, moet hy volgens onderstaande voorskrifte beslag lê op, en 'n inventaris maak van die roerende goed van die insolvente boedel wat in sy distrik is en vatbaar is vir lewering van hand tot hand en nie in besit is nie van iemand wat beweer dat hy geregtig is om dit te behou kragtens 'n pandreg of 'n retensiereg of deur 'n geregsbode in beslag geneem is nie, naamlik—

Beslaglegging op goed deur onderbalju.

(a) hy moet in sy eie bewaring neem alle rekeningboeke, fakture, bewysstukke, besigheids-korrespondensie, kontante geld, aandeelbewyse, verbande, wissels, promesse en ander handelspapier en daardie kontante geld aan die Meester stuur;

(b) hy moet roerende goed, buiten diere, in 'n vertrek of ander geskikte plek behoorlik verseël laat of 'n geskikte persoon aanstel om enige roerende goed in sy bewaring te hou;

(c) hy moet aan die aldus aangestelde persoon 'n afskrif oorhandig van die inventaris met 'n kennisgewing dat die goed kragtens 'n sekwestrasie-order in beslag geneem is. Die kennisgewing moet melding maak van die misdryf tot stand gebring deur artikel *honderd-twee-en-veertig* en die daarop gestelde straf.

(2) Enigen wat belang het by die insolvente boedel of by die in beslag genome goed mag teenwoordig wees of mag iemand anders magtig om teenwoordig te wees wanneer die onderbalju die inventaris opmaak.

(3) Onmiddellik nadat die onderbalju goed in beslag geneem het, moet hy die beslaglegging aan die Meester skriftelik meld. In sy melding moet hy gewag maak van alle goedere waarvan hy weet dat hulle in die wettige besit is van 'n pandhouer of van iemand wat kragtens 'n retensiereg geregtig is om hulle te behou, en hy moet met sy melding 'n afskrif van sy inventaris instuur.

(4) 'n Geregsbode moet aan die Meester onverwyld 'n inventaris instuur van alle goedere wat hy in beslag geneem het en waarvan hy weet dat hulle aan 'n insolvente boedel behoort.

(5) Die onderbalju is geregtig op fooie deur die Meester getakseer volgens tarief A in die Tweede Bylae tot hierdie Wet en die reëls vir die toepassing van daardie tarief.

20. (1) Die sekwestrasie van die boedel van 'n insolvent het ten gevolge—

Uitwerking van sekwestrasie op insolvent se goedere.

(a) dat die insolvent se boedel ophou om aan hom te behoort en oorgaan op die Meester totdat 'n kurator aangestel is en na aanstelling van 'n kurator, op hom;

(b) dat elke siviele geding, deur of teen die insolvent ingestel, gestaak word, behalwe 'n geding wat kragtens artikel *drie-en-twintig* deur die insolvent tot sy eie voordeel ingestel of teen die insolvent ingestel mag word: Met dien verstande dat wanneer 'n vordering,

legal proceedings against the insolvent which were so stayed, has been proved and admitted against the insolvent's estate in terms of section *forty-four* or *seventy-eight*, the claimant may also prove against the estate a claim for his taxed costs, incurred in connection with those proceedings before the sequestration of the insolvent's estate;

- (c) as soon as any sheriff or messenger, whose duty it is to execute any judgment given against an insolvent, becomes aware of the sequestration of the insolvent's estate, to stay that execution, unless the Court otherwise directs;
- (d) to empower the insolvent, if in prison for debt, to apply to the Court for his release, after notice to the creditor at whose suit he is so imprisoned, and to empower the Court to order his release, on such conditions as it may think fit to impose.

(2) For the purposes of sub-section (1) the estate of an insolvent shall include—

- (a) all property of the insolvent at the date of the sequestration, including property or the proceeds thereof which are in the hands of a sheriff or a messenger under a writ of attachment;
- (b) all property which the insolvent may acquire or which may accrue to him during the sequestration, except as otherwise provided in section *twenty-three*.

Effect of sequestration on property of spouse of insolvent.

21. (1) The additional effect of the sequestration of the separate estate of one of two spouses who are not living apart under a judicial order of separation shall be to vest in the Master, until a trustee has been appointed, and, upon the appointment of a trustee, to vest in him all the property (including property or the proceeds thereof which are in the hands of a sheriff or a messenger under a writ of attachment) of the spouse whose estate has not been sequestrated (hereinafter referred to as the solvent spouse) as if it were property of the sequestrated estate, and to empower the Master or trustee to deal with such property accordingly, but subject to the following provisions of this section.

(2) The trustee shall release any property of the solvent spouse which is proved—

- (a) to have been the property of that spouse immediately before her or his marriage to the insolvent or before the first day of October, 1926; or
- (b) to have been acquired by that spouse under a marriage settlement; or
- (c) to have been acquired by that spouse during the marriage with the insolvent by a title valid as against creditors of the insolvent; or
- (d) to be safeguarded in favour of that spouse by section *twenty-eight* of this Act or by the Insurance Act, 1923 (Act No. 37 of 1923); or
- (e) to have been acquired with any such property as aforesaid or with the income or proceeds thereof.

(3) If the solvent spouse is in the Union and the trustee is able to ascertain his or her address, the trustee shall not, except with the leave of the Court, realise property which ostensibly belonged to the solvent spouse, until the expiry of six weeks' written notice of his intention to do so, given to that spouse. Such notice shall also be published in the *Gazette* and in a newspaper circulating in the district in which the solvent spouse resides or carries on business, and shall invite all separate creditors for value of that spouse to prove their claims as provided in sub-section (5).

(4) The solvent spouse may apply to the Court for an order releasing any property vested in the trustee of the insolvent estate under sub-section (1) or for an order staying the sale of such property or, if it has already been sold, but the proceeds thereof not yet distributed among creditors, for an order declaring the applicant to be entitled to those proceeds; and the Court may make such order on the application as it thinks just.

(5) Subject to any order made under sub-section (4) any property of the solvent spouse realised by the trustee shall bear a proportionate share of the costs of the sequestration as if

op grond waarvan 'n geding wat aldus gestaak is, teen die insolvent ingestel was, ingevolge artikel vier-en-veertig of agt-en-sewentig teen die insolvent se boedel bewys en erken is, die eiser ook 'n vordering vir sy getakseerde koste in verband met daardie geding gemaak voor die sekwestrasie van die insolvent se boedel, teen die boedel kan bewys;

- (c) dat, tensy die hof anders gelas, die tenuitvoerlegging van 'n vonnis teen die insolvent gevel, gestaak word, sodra die balju of geregsbode wat met daardie tenuitvoerlegging belas is, van die sekwestrasie van die insolvent se boedel te wete kom;
- (d) dat die insolvent, as hy weens skuld in die gevangenis is, bevoeg word om die hof om sy ontslag te versoek, na kennisgewing aan die skuldeiser wat hom in die gevangenis laat sit het, en dat die hof bevoeg word om sy ontslag te gelas, en wel op die voorwaardes wat die hof wenslik ag.

(2) By die toepassing van sub-artikel (1) omvat die boedel van 'n insolvent—

- (a) alle goedere van die insolvent op die dag van die sekwestrasie, met inbegrip van goedere of die opbrings daarvan, wat op grond van 'n lasbrief tot beslaglegging in hande van 'n balju of geregsbode is;
- (b) alle goedere wat gedurende die sekwestrasie deur die insolvent mag verkry word of aan hom mag verval, vir sover artikel drie-en-twintig nie anders bepaal nie.

21. (1) Die sekwestrasie van die afsonderlike boedel van een van twee eggenote wat nie geskeie leef nie kragtens 'n regterlike skeidingsbevel, het verder ten gevolge dat alle goedere (met inbegrip van goedere of die opbrings daarvan, wat op grond van 'n lasbrief tot beslaglegging in hande van 'n balju of geregsbode is) van die eggenoot wie se boedel nie gesekwestreer is nie (hieronder die solvente eggenoot genoem) oorgaan op die Meester totdat 'n kurator aangestel is en na aanstelling van 'n kurator, op hom, asof dit goedere van die gesekwestreerde boedel was, en dat die Meester of kurator bevoeg word om met daardie goedere dienooreenkomstig te handel, behoudens die volgende bepalinge van hierdie artikel.

Uitwerking van sekwestrasie of goedere van insolvent se vrou of man.

(2) Die kurator moet alle goedere van die solvente eggenoot vrygee waarvan bewys word—

- (a) dat hulle die eiendom van daardie eggenoot was onmiddellik voor haar of sy huwelik met die insolvent of voor die eerste dag van Oktober 1926; of
- (b) dat hulle deur daardie eggenoot verkry is kragtens 'n huwelikskontrak; of
- (c) dat hulle deur daardie eggenoot gedurende die huwelik met die insolvent verkry is kragtens 'n titel wat regsgeldig is teenoor die skuldeisers van die insolvent; of
- (d) dat hulle ten behoeve van daardie eggenoot gevrywaar is deur artikel agt-en-twintig van hierdie Wet of deur die „Verzekeringwet, 1923” (Wet No. 37 van 1923); of
- (e) dat hulle met sodanige goedere as voormeld, of met die inkomste of opbrings daarvan verkry is.

(3) As die solvente eggenoot in die Unie is en die kurator in staat is om sy of haar adres te verkry mag die kurator nie sonder verlof van die hof goedere, wat blykbaar aan die solvente eggenoot behoort het, te gelde maak nie binne ses weke na skriftelike kennisgewing aan daardie eggenoot van sy voorneme om dit te doen. Bedoelde kennisgewing moet ook gepubliseer word in die *Staatskoerant* en in 'n nuusblad in omloop in die distrik waarin die solvente eggenoot woon of besigheid dryf, en daarin moet alle afsonderlike skuldeisers vir waarde van daardie eggenoot uitgenodig word om hulle vorderings volgens voorskrif van sub-artikel (5) te bewys.

(4) Die solvente eggenoot kan die hof versoek om 'n order tot vrygawe van goed wat kragtens sub-artikel (1) op die kurator van die insolvente boedel oorgegaan het of om 'n order tot opskorting van die verkoping van sodanige goed of as dit reeds verkoop maar die opbrings daarvan nog nie onder skuldeisers verdeel is nie, om 'n order waarin verklaar word dat die versoeker op daardie opbrings geregtig is; en die hof kan na aanleiding van daardie versoek die order uitvaardig wat hy billik ag.

(5) Behoudens 'n kragtens sub-artikel (4) uitgevaardigde order, kom 'n eweredige deel van die koste van die sekwestrasie ten laste van die solvente eggenoot se goed wat deur die kurator

it were property of the insolvent estate but the separate creditors for value of the solvent spouse having claims which could have been proved against the estate of that spouse if it had been the estate under sequestration, shall be entitled to prove their claims against the estate of the insolvent spouse in the same manner and, except as in this Act is otherwise provided, shall have the same rights and remedies and be subject to the same obligations as if they were creditors of the insolvent estate; and the creditors who have so proved claims shall be entitled to share in the proceeds of the property so realised according to their legal priorities *inter se* and in priority to the separate creditors of the insolvent estate, but shall not be entitled to share in the separate assets of the insolvent estate.

(6) If any property of the solvent spouse (other than property mentioned in paragraph (d) of sub-section (2)) has been released by virtue of sub-section (2) or (4) the separate creditors of that spouse shall only be entitled to share in the proceeds of any property of the solvent spouse which has been realised by the trustee, after the property so released and any property of that spouse acquired by her or him since the sequestration, have been excused.

(7) Before awarding any such creditor a share in such proceeds, the trustee may require the creditor to lodge with him, within a period to be determined by the Master, an affidavit, supported by such evidence as may be available, setting forth the result of such excussion and disclosing the balance of his claim which remains unpaid. He shall then be entitled to share as aforesaid in respect of that balance only: Provided that any creditor who has incurred costs in excussing the separate property of the solvent spouse and has been unable to recover those costs from the proceeds of that property shall be entitled to add the amount of those costs to the amount of his claim as proved.

(8) If, during the period determined by the Master, any such creditor has failed either to lodge with the trustee such an affidavit as aforesaid, or to excuss any separate property of the solvent spouse still available for the satisfaction of his claim, he shall be debarred from sharing as aforesaid unless the Court otherwise orders.

(9) A creditor of the solvent spouse who has proved a claim as provided in sub-section (5) shall not be liable to make any contribution under section *one hundred and six*, and shall not be entitled to vote at any meeting of the creditors of the insolvent estate held in terms of section *forty, forty-one* or *forty-two*; but any direction of the creditors of the insolvent estate which infringes the rights of any such first-mentioned creditor may be set aside by the Court on the application of such creditor.

(10) If the solvent spouse is carrying on business as a trader, apart from the insolvent spouse or if it appears to the Court that the solvent spouse is likely to suffer serious prejudice through the immediate vesting of the property of that spouse in the Master or the trustee, and the Court is satisfied in either case that the solvent spouse is willing and able to make arrangements whereby the interest therein of the insolvent estate in the said property will be safeguarded without such a vesting, the Court, either when making the sequestration order or at some later date, but subject to the immediate completion of such arrangement as aforesaid, may exclude that property or any part thereof from the operation of the order, for such period as it thinks fit. During that period the solvent spouse shall lay before the trustee the evidence available in support of her or his claim to such property and within that period the trustee shall notify the solvent spouse in writing whether or not he will release such property in accordance with sub-section (2). If the property has not been so released, then upon the expiry of the said period that property shall vest in the Master or in the trustee, but subject to the provisions of this section.

(11) If application is made to the Court for the sequestration of the estate of the solvent spouse on the ground of an act of insolvency committed by that spouse since the vesting of her or his property in the Master or the trustee of the insolvent estate, and the Court is satisfied that the act of insolvency alleged in that application was due to such vesting, then if it appears—

(a) that an application is being or, if necessary, will be made under sub-section (4) for the release of any property of the solvent spouse; or

te gelde gemaak is, asof dit goed van die insolvente boedel was, dog die afsonderlike skuldeisers vir waarde van die solvente eggenoot met vorderings wat teen die boedel van daardie eggenoot sou kon bewys geword het as dit die gesekwestreerde boedel gewees het, is geregtig om hulle vorderings teen die boedel van die insolvent te bewys op dieselfde wyse en hulle het (behalwe vir sover hierdie Wet anders bepaal) dieselfde regte, regsmiddels en verpligtings asof hulle skuldeisers van die insolvente boedel was; en die skuldeisers, wat aldus vorderings bewys het, is geregtig om te deel in die oprings van die aldus te gelde gemaakte goed volgens hulle wetlike reg van voorrang onderling en met voorrang bo die afsonderlike skuldeisers van die insolvente boedel, dog hulle is nie geregtig om te deel nie in die afsonderlike bate van die insolvente boedel.

(6) Wanneer ander goedere van die solvente eggenoot as goedere vermeld in paragraaf (d) van sub-artikel (2) kragtens sub-artikel (2) of (4) vrygegee is, dan is die afsonderlike skuldeisers van daardie eggenoot geregtig om te deel in die oprings van goedere van die solvente eggenoot wat deur die kurator te gelde gemaak is, slegs nadat die aldus vrygegewe goedere en goedere van daardie eggenoot wat sy of hy sedert die sekwestrasie verkry het, uitgewin is.

(7) Alvorens aan so 'n skuldeiser 'n deel in bedoelde oprings toe te ken, kan die kurator van hom verlang dat hy binne 'n deur die Meester vas te stelle termyn by die kurator moet indien 'n beëdigde verklaring, gestaaf deur sodanige bewyse as wat beskikbaar mag wees, waarin die uitslag van bedoelde uitwinning meegedeel en die oorskot van sy vordering, wat nie betaal is nie, aangegee word. Hy is dan geregtig om slegs ten opsigte van daardie oorskot, soas voormeld, te deel: Met dien verstande dat 'n skuldeiser wat koste gemaak het by die uitwinning van die afsonderlike goedere van die solvente eggenoot, en wat daardie koste nie op die oprings van daardie goedere kon verhaal nie, geregtig is om die bedrag van daardie koste te voeg by die bedrag van sy vordering soas bewese.

(8) As so 'n skuldeiser in gebreke gebly het om gedurende die termyn deur die Meester vasgestel, of so 'n beëdigde verklaring as voormeld by die kurator in te dien, of om enige afsonderlike goed van die solvente eggenoot wat tot voldoening van sy vordering beskikbaar is, uit te win, dan word hy, tensy die hof anders gelas, van voormelde verdeling uitgesluit.

(9) 'n Skuldeiser van die solvente eggenoot, wat volgens voorskrif van sub-artikel (5) 'n vordering bewys het, is nie verplig om volgens artikel *honderd-en-ses* in te betaal nie en is nie geregtig om te stem nie op 'n byeenkoms van die skuldeisers van die insolvente boedel, gehou volgens artikel *veertig*, *een-en-veertig* of *twee-en-veertig*; maar as die skuldeisers van die insolvente boedel iets beveel wat inbreuk maak op die regte van so 'n eersbedoelde skuldeiser, dan kan die hof op sy aansoek die bevel vernietig.

(10) As die solvente eggenoot afgesonder van die insolvent as handelaar besigheid dryf, of as aan die hof blyk dat die solvente eggenoot deur onmiddellike oorgang van haar of sy goedere op die Meester of kurator, waarskynlik ernstig benadeel sal word, en die hof is in beide gevalle oortuig dat die solvente eggenoot gewillig en by magte is om te reël dat die belange van die insolvente boedel by voormelde goedere sonder 'n sodanige oorgang gevrywaar sal word, dan kan die hof, hetsy wanneer hy die sekwestrasie-order uitvaardig, hetsy op 'n latere dag, dog mits voormelde reëling onmiddellik uitgevoer word, daardie goedere of 'n deel daarvan van die gevolge van die order uitsluit, en wel vir solank as wat die hof raadsaam ag. Gedurende daardie tydperk moet die solvente eggenoot die beskikbare bewyse tot staving van haar of sy aanspraak op bedoelde goedere aan die kurator voorlê en binne daardie tydperk moet die kurator aan die solvente eggenoot skriftelik meedeel of hy al dan nie daardie goedere ingevolge sub-artikel (2) sal vrygee. As die goedere nie aldus vrygegee is nie, dan gaan hulle na verstryking van bedoelde tydperk op die Meester of kurator oor, dog behoudens die bepalinge van hierdie artikel.

(11) As die hof versoek word om die boedel van die solvente eggenoot te sekwestreer op grond van 'n daad van insolvensie deur daardie eggenoot begaan sedert die oorgang van haar of sy goedere op die Meester of op die kurator van die insolvente boedel en die hof oortuig is dat die daad van insolvensie wat in daardie versoek aangevoer word, aan daardie oorgang te wyte is, dan kan die hof, as blyk—

(a) dat kragtens sub-artikel (4) 'n versoek gedaan word of, indien nodig, gedaan sal word, om vrygawe van goedere van die solvente eggenoot; of

(b) that any property of the solvent spouse has been released since the making of the sequestration order, and that the solvent spouse is now in a position to discharge her or his liabilities,

the Court may postpone the hearing of the said application or may make such interim order thereon as to it may seem just.

(12) If the trustee has in accordance with the preceding provisions of this section released any property alleged to belong to the solvent spouse, he shall not be debarred thereby from proving that it belongs to the insolvent estate and from recovering accordingly.

(13) In this section the word "spouse" means not only a wife or husband in the legal sense, but also a wife or husband by virtue of a marriage according to any law or custom, and also a woman living with a man as his wife or a man living with a woman as her husband, although not married to one another.

Payment of debts after sequestration.

22. Every satisfaction in whole or in part of any obligation the fulfilment whereof was due or the cause of which arose before the sequestration of the creditor's estate shall, if made to the insolvent after such sequestration, be void, unless the debtor proves that it was made in good faith and without knowledge of the sequestration.

Rights and obligations of insolvent during sequestration.

23. (1) Subject to the provisions of this section and of section *twenty-four*, all property acquired by an insolvent shall belong to his estate.

(2) The fact that a person entering into any contract is an insolvent, shall not affect the validity of that contract: Provided that the insolvent does not thereby purport to dispose of any property of his insolvent estate; and provided further that an insolvent shall not, without the consent in writing of the trustee of his estate, enter into any contract whereby his estate or any contribution towards his estate which he is obliged to make, is or is likely to be adversely affected, but in either case subject to the provisions of sub-section (1) of section *twenty-four*.

(3) An insolvent may follow any profession or occupation or enter into any employment, but he may not, during the sequestration of his estate without the consent in writing of the trustee of his estate, either carry on, or be employed in any capacity or have any direct or indirect interest in, the business of a trader who is a general dealer or a manufacturer: Provided that any one of the creditors of the insolvent's estate or the insolvent himself may, if the trustee gives or refuses such consent, appeal to the Master, whose decision shall be final.

(4) The insolvent shall keep a detailed record of all assets received by him from whatever source, and of all disbursements made by him in the course of his profession, occupation or employment, and, if required thereto by the trustee, shall transmit to the trustee in the first week of every month a statement verified by affidavit of all assets received and of all disbursements made by him during the preceding month. The trustee may inspect such record at all reasonable times and may demand the production of reasonable vouchers in support of any item in such accounts and of the expenditure of the insolvent for the support of himself and those dependent upon him.

(5) The trustee shall be entitled to any moneys received or to be received by the insolvent in the course of his profession, occupation or other employment which in the opinion of the Master are not or will not be necessary for the support of the insolvent and those dependent upon him, and if the trustee has notified the employer of the insolvent that the trustee is entitled, in terms of this sub-section, to any part of the insolvent's remuneration due to him at the time of such notification, or which will become due to him thereafter, the employer shall pay over that part to the trustee.

(6) The insolvent may sue or may be sued in his own name without reference to the trustee of his estate in any matter relating to status or any right in so far as it does not affect his estate or in respect of any claim due to or against him under this section, but no cession of his earnings after the sequestration of his estate, whether made before or after the sequestration shall be of any effect so long as his estate is under sequestration.

(7) The insolvent may for his own benefit recover any pension to which he may be entitled for services rendered by him.

(8) The insolvent may for his own benefit recover any compensation for any loss or damage which he may have suffered,

- (b) dat goedere van die solvente eggenoot sedert die uitvaardiging van die sekwestrasie-order vrygegee is en dat die solvente eggenoot nou in staat is om haar of sy skulde te delg,

die verhoor van bedoelde versoek uitstel of na aanleiding daarvan so 'n tussentydse order uitvaardig as wat hy billik ag.

(12) As die kurator volgens die voorgaande bepalings van hierdie artikel goed, wat beweër word aan die solvente eggenoot te behoort, vrygegee het, dan belet dit hom nie om te bewys dat dit aan die insolvente boedel behoort en om dit dienooreenkomstig op te vorder.

(13) In hierdie artikel beteken „eggenoot” nie alleen 'n eggenote of eggenoot in die wettige sin nie maar ook 'n eggenote of eggenoot kragtens 'n huwelik volgens enige regstelsel of gebruik en ook 'n vrou wat met 'n man as sy eggenote leef of 'n man wat met 'n vrou as haar eggenoot leef, hoewel hulle nie met mekaar getroud is nie.

22. As 'n verbintenis waarvan die vervulling verskuldig was of waarvan die oorsaak ontstaan het voor die sekwestrasie van die skuldeiser se boedel, na die sekwestrasie geheel of ten dele aan die insolvent voldaan word, dan is die voldoening ongeldig, tensy die skuldenaar bewys dat dit te goeder trou geskied is en sonder kennis van die sekwestrasie.

Betaling van skulde na sekwestrasie.

23. (1) Behoudens die bepalings van hierdie artikel en artikel vier-en-twintig, behoort alle goedere, wat 'n insolvent verkry, aan sy boedel.

Regte en verpligtings van insolvent gedurende sekwestrasie.

(2) Die feit dat iemand wat 'n kontrak aangaan, insolvent is, doen geen afbreuk aan die geldigheid van daardie kontrak nie, mits die insolvent daardeur nie voorgee om goed van sy insolvente boedel te vervreem nie: Met dien verstande dat 'n insolvent nie sonder skriftelike toestemming van die kurator van sy boedel 'n kontrak mag aangaan nie wat 'n nadelige uitwerking het of waarskynlik sou hê op sy boedel of op 'n bydrae tot sy boedel waartoe hy verplig is, maar in beide gevalle behoudens die bepalings van sub-artikel (1) van artikel vier-en-twintig.

(3) 'n Insolvent kan enige professie of beroep beoefen of in enige diens tree, maar hy mag nie gedurende die sekwestrasie van sy boedel sonder die skriftelike toestemming van die kurator van sy boedel die besigheid van 'n handelaar (wat 'n algemene handelaar of 'n fabrikant is) dryf of in welke hoedanigheid ook daarin in diens wees of direk of indirek belang daarby hê nie: Met dien verstande dat as die kurator sodanige toestemming gee of weier, enigeen van die skuldeisers van die insolvent se boedel of die insolvent self hom kan beroep op die Meester, wie se beslissing finaal is.

(4) Die insolvent moet uitvoerig aantekening hou van alle bate wat hy uit watter bron ook al ontvang en van al sy uitgawe in sy professie, beroep of diens en as die kurator dit verlang, moet hy aan die kurator in die eerste week van elke maand 'n staat instuur, bevestig deur 'n beëdigde verklaring, van alle bate wat hy ontvang het en van al sy uitgawe gedurende die voorafgaande maand. Die kurator kan daardie aantekeninge op alle redelike tye insien en kan oorlegging vorder van redelike bewysstukke tot staving van een of ander sodanige aantekening en van die uitgawe van die insolvent tot onderhoud van homself en diegenes wat van hom afhanklik is.

(5) Die kurator is geregtig op alle gelde wat die insolvent ontvang het of sal ontvang in sy professie, beroep of diens wat volgens die Meester se oordeel nie nodig is of sal wees nie om homself en diegenes wat van hom afhanklik is, te onderhou nie, en as die kurator aan die werkgewer van die insolvent kennis gegee het dat die kurator kragtens hierdie sub-artikel geregtig is op enige deel van die insolvent se besoldiging wat op die tydstip van die kennisgewing aan hom verskuldig is of wat daarna aan hom verskuldig sal word, dan moet die werkgewer daardie deel aan die kurator oorbetaal.

(6) Die insolvent kan in sy eie naam in regte aanspreek of aangespreek word sonder tussenkoms van die kurator van sy boedel in enige saak aangaande status of 'n reg, vir sover sy boedel nie daarmee gemoei is nie, of weens enige vordering wat kragtens hierdie artikel deur of op hom verhaal kan word, maar geen cessie van sy verdienste na die sekwestrasie van sy boedel, hetsy voor of na die sekwestrasie gedaan, is regsgeldig nie solank sy boedel onder sekwestrasie is.

(7) Die insolvent kan 'n pensioen, waarop hy geregtig mag wees weens dienste deur hom bewys, tot sy eie voordeel invorder.

(8) Die insolvent kan vergoeding van verlies of skade wat hy hetsy voor of na die sekwestrasie van sy boedel mag gely het

whether before or after the sequestration of his estate, by reason of any defamation or personal injury: Provided that he shall not, without the leave of the Court, institute an action against the trustee of his estate on the ground of malicious prosecution or defamation.

(9) Subject to the provisions of sub-section (5) the insolvent may recover for his own benefit, the remuneration or reward for work done or for professional services rendered by or on his behalf after the sequestration of his estate.

(10) The insolvent may be sued in his own name for any delict committed by him after the sequestration of his estate, and his insolvent estate shall not be liable therefor.

(11) Any property claimable by the trustee from the insolvent under this section may be recovered from the insolvent by writ of execution to be issued by the registrar upon the production to him of a certificate by the Master that the property stated therein is so claimable.

(12) The insolvent shall at any time before the second meeting of the creditors of his estate held in terms of section *forty*, at the request of the trustee assist the trustee to the best of his ability in collecting, taking charge of or realising any property belonging to the estate: Provided that the trustee shall, during the period of such assistance, give to the insolvent out of the estate such an allowance in money or goods as is, in the opinion of the Master, necessary to support the insolvent and his or her dependants.

(13) The insolvent shall keep the trustee of his estate informed of his residential and postal addresses.

(14) Any notice or information which is to be conveyed to an insolvent in terms of this Act, may be delivered to him personally or may be delivered at or sent in a registered letter by post to an address given by the insolvent to the trustee in terms of sub-section (13).

Provisions relating to property in possession of insolvent after sequestration.

24. (1) If an insolvent purports to alienate, for valuable consideration, without the consent of the trustee of his estate any property which he acquired after the sequestration of his estate (and which by virtue of such acquisition became part of his sequestrated estate) or any right to any such property to a person who proves that he was not aware and had no reason to suspect that the estate of the insolvent was under sequestration the alienation shall nevertheless be valid.

(2) Whenever an insolvent has acquired the possession of any property, such property shall, if claimed by the trustee of the insolvent's estate, be deemed to belong to that estate unless the contrary is proved; but if a person who became the creditor of the insolvent after the sequestration of his estate, alleges (whether against the trustee or against the insolvent) that any such property does not belong to the said estate and claims any right thereto, the property shall be deemed not to belong to the estate, unless the contrary is proved.

Estate to remain vested in trustee until composition or rehabilitation.

25. (1) The estate of an insolvent shall remain vested in the trustee until the insolvent is reinvested therewith pursuant to a composition as in section *one hundred and nineteen* provided, or until the rehabilitation of the insolvent in terms of section *one hundred and twenty-seven*: Provided that any property which immediately before the rehabilitation is vested in the trustee shall remain vested in him after the rehabilitation for the purposes of realization and distribution.

(2) When a trustee has vacated his office or has been removed from office or has resigned or died the estate shall vest in the remaining trustee, if any; otherwise it shall vest in the Master until another trustee has been appointed.

Dispositions without value.

26. (1) Every disposition of property not made for value may be set aside by the Court if such disposition was made by an insolvent—

(a) more than two years before the sequestration of his estate, and it is proved that, immediately after the disposition was made, the liabilities of the insolvent exceeded his assets;

(b) within two years of the sequestration of his estate, and the person claiming under or benefited by the disposition is unable to prove that, immediately after the disposition was made, the assets of the insolvent exceeded his liabilities:

Provided that if it is proved that the liabilities of the insolvent at any time after the making of the disposition exceeded his

weens belasting of persoonlike letsel, tot sy eie voordeel invorder: Met dien verstande dat hy nie sonder toestemming van die hof 'n aksie teen die kurator van sy boedel kan instel nie op grond van kwaadwillige vervolging of laster.

(9) Behoudens die bepalings van sub-artikel (5) kan die insolvent die besoldiging vir werk of die vergoeding vir professionele dienste wat hy of iemand anders namens hom na die sekwestrasie van sy boedel verrig het, tot sy eie voordeel invorder.

(10) Die insolvent kan in sy eie naam in regte aangespreek word weens 'n onregmatige daad wat hy na die sekwestrasie van sy boedel begaan het, en sy insolvente boedel is nie daarvoor aanspreeklik nie.

(11) Alle goedere wat die kurator kragtens hierdie artikel van die insolvent kan invorder, kan op hom verhaal word deur middel van 'n lasbrief tot eksekusie wat die griffier moet uitreik op vertoon aan hom van 'n sertifikaat van die Meester dat die daarin vermelde goedere aldus invorderbaar is.

(12) Die insolvent moet te eniger tyd voor die tweede byeenkoms van die skuldeisers van sy boedel, gehou volgens artikel *veertig*, op versoek van die kurator so goed as hy kan die kurator help om goedere wat tot die boedel behoort, bymekaar te maak, in bewaring te neem of te gelde te maak: Met dien verstande dat die kurator solank as wat die insolvent hom aldus help, aan die insolvent so 'n toelae in geld of goedere uit die boedel moet gee as wat volgens die Meester se oordeel nodig is om die insolvent en diegenes wat van hom of haar afhanklik is, te onderhou.

(13) Die insolvent moet die kurator van sy boedel in kennis hou van sy pos- en woonadresse.

(14) Elke kennisgewing of meedeling aan 'n insolvent volgens hierdie Wet kan aan hom persoonlik oorhandig word of kan afgegee word aan 'n adres wat die insolvent aan die kurator volgens sub-artikel (13) aangegee het of kan in 'n aangetekende brief deur die pos na daardie adres gestuur word.

24. (1) As 'n insolvent voorgee om teen vergoeding van waarde, sonder toestemming van die kurator van sy boedel, goed wat hy na die sekwestrasie van sy boedel verkry het (en wat deur daardie verkryging deel van sy gesekwestreerde boedel geword het) of 'n reg op sodanige goed te vervreem aan iemand wat bewys dat hy nie geweet het en geen rede gehad het om te vermoed dat die boedel van die insolvent onder sekwestrasie was nie, dan is die vervreemding desnietemin regsgeldig.

Bepalings omtrent goedere in besit van insolvent na die sekwestrasie.

(2) Wanneer 'n insolvent die besit van enige goed verkry het, dan word daardie goed, as die kurator van die insolvent se boedel dit opeis, geag tot daardie boedel te behoort, tensy die teendeel bewys word; maar as iemand wat die skuldeiser van die insolvent geword het na die sekwestrasie van sy boedel, beweer (hetsy teenoor die kurator of teenoor die insolvent) dat sodanige goed nie tot bedoelde boedel behoort nie en aanspraak maak op een of ander reg daartoe, dan word die goed geag nie tot die boedel te behoort nie, tensy die teendeel bewys word.

25. (1) Die boedel van 'n insolvent bly onder die beheer van die kurator totdat dit weer op die insolvent oorgaan ingevolge 'n akkoord, volgens die bepalings van artikel *honderd-en-negentien* of totdat die insolvent gerehabiliteer word, volgens artikel *honderd-sewen-en-twintig*: Met dien verstande dat alle goedere wat onmiddellik voor die rehabilitasie onder beheer van die kurator val, na die rehabilitasie onder sy beheer bly om te gelde gemaak en verdeel te word.

Insolvente boedel bly onder kurator tot akkoord of rehabilitasie.

(2) Wanneer 'n kurator sy amp ontruim het of afgesit is of afgetree het of oorlede is, dan gaan die boedel oor op die orige kurator, as daar een is; anders gaan dit op die Meester oor totdat 'n ander kurator aangestel is.

26. (1) Elke vervreemding van goed sonder teenwaarde kan deur die hof tot niet gemaak word as daardie vervreemding gedaan is deur 'n insolvent—

Beskikking oor goed sonder teenwaarde.

(a) meer as twee jaar voor die sekwestrasie van sy boedel en bewys gelewer word dat onmiddellik na die vervreemding die skulde van die insolvent sy bate te bo gegaan het;

(b) binne twee jaar voor die sekwestrasie van sy boedel en die persoon wat kragtens die vervreemding 'n vordering inbring of wat daardeur bevoordeel is, nie kan bewys nie dat onmiddellik na die vervreemding die bate van die insolvent sy skulde te bo gegaan het:

Met dien verstande dat as bewys word dat die skulde van die insolvent te eniger tyd na die vervreemding sy bate te

assets by less than the value of the property disposed of, it may be set aside only to the extent of such excess.

(2) A disposition of property not made for value, which was set aside under this section or which was uncompleted by the insolvent, shall not give rise to any claim in competition with the creditors of the insolvent's estate.

Antenuptial contracts.

27. (1) No immediate benefit under a duly registered antenuptial contract given in good faith by a man to his wife or any child to be born of the marriage shall be set aside as a disposition without value, unless that man's estate was sequestrated within two years of the registration of that antenuptial contract.

(2) In sub-section (1) the expression "immediate benefit" means a benefit given by a transfer, delivery, payment, cession, pledge, or special mortgage of property completed before the expiration of a period of three months as from the date of the marriage.

Life insurance policies.

28. (1) When a man, before or during his marriage, has effected in favour of or ceded to or for the benefit of his wife any policy or policies of life insurance, the policy or policies to an amount not exceeding two thousand pounds, and any bonus due in respect thereof, shall be excluded from her estate, if her estate is sequestrated.

(2) When a man before or during his marriage, but more than two years before the sequestration of his estate, has in good faith effected in favour of or ceded to or for the benefit of his wife or child or both a policy or policies of life insurance, the policy or policies, if it does not or they do not constitute an immediate benefit as defined in sub-section (2) of section *twenty-seven*, whether to the wife or child or both, shall to an amount not exceeding two thousand pounds, and any bonus due in respect thereof, be excluded from his insolvent estate, and, if he is married in community of property, from the joint estate of himself and his wife:

Provided that—

(a) any policy which, at the time of the sequestration of the estate, had been ceded or pledged to any person (other than the wife or child of the insured, or a trustee for such wife or child) shall not, to the extent of the interest ceded or received by the pledgee, be excluded as aforesaid;

(b) when any policy is excluded as aforesaid as to a part only, the person entitled to the part which has not been excluded, may demand from the insurer by whom such policy was issued, the issue of two policies, in substitution of such policy; one for the part which has not been excluded and the other for the excluded part, in favour of the parties respectively entitled thereto. The insurer shall thereupon issue such policies at the expense of the applicant, and the original policy shall thereupon become void.

(3) In this section the expression, "policy of life insurance" or "policy" includes a contract for securing an insurance endowment, bonus, or annuity upon the death of the insured, or on the expiration of any period, or on the happening of an event, as well as a fully paid-up policy granted for the surrender or exchange of a policy of an equivalent value, but shall not include any other property acquired in consideration of the surrender, pledge, or cession of a policy.

Voidable preferences.

29. (1) Every disposition of his property made by a debtor not more than six months before the sequestration of his estate, which has had the effect of preferring one of his creditors above another, may be set aside by the Court if immediately after the making of such disposition the liabilities of the debtor exceeded the value of his assets, unless the person in whose favour the disposition was made proves that the disposition was made in the ordinary course of business and that it was not intended thereby to prefer one creditor above another but subject to the provisions of sub-section (2).

(2) If the liabilities of a debtor who has borrowed money from a bank by overdrawing his account with that bank, upon any date within the period of six months immediately preceding the sequestration of his estate exceeded the value of his assets, then all payments made by that debtor to that

bo gegaan het met minder as die waarde van die vervreemde goed, die vervreemding slegs tot die hoogte van daardie oorskot tot niet gemaak kan word.

(2) 'n Vervreemding van goed sonder teenwaarde wat kragtens hierdie artikel tot niet gemaak is of wat nie deur die insolvent volvoer is nie, gee aan die bevoordeelde nie die reg om met die skuldeisers van die insolvent se boedel te konkurreer nie.

27. (1) Geen onmiddellike bevoordeling kragtens behoorlik geregistreerde huweliksvoorwaardes, deur 'n man aan sy vrou of aan 'n kind wat uit die huwelik gebore sal word, te goeder trou verleen, word as 'n vervreemding sonder teenwaarde tot niet gemaak nie, tensy daardie man se boedel gesekwestreer is binne twee jaar na die registrasie van daardie huweliksvoorwaardes.

Huweliks-
voorwaardes.

(2) In sub-artikel (1) beteken die uitdrukking „onmiddellike bevoordeling” 'n bevoordeling verleen deur transport, oordrag, betaling, cessie, verpanding of verlening van 'n spesiale verband op goed, wat voltooi is voor die verloop van 'n tydperk van drie maande vanaf die dag van die huwelik.

28. (1) As 'n man voor of gedurende sy huwelik een of meer lewensassuransie-polisse ten gunste van sy vrou aangegaan het of aan haar of ten behoeve van haar gecedeer het, dan word die polis of polisse tot 'n bedrag van nie meer as tweeduisend pond, benewens een of ander bonus wat in verband daarmee verskuldig mag wees, van haar boedel uitgesluit, as haar boedel gesekwestreer word.

Lewensassuran-
siepolisse.

(2) Wanneer 'n man voor of gedurende sy huwelik, dog meer as twee jaar voor die sekwestrasie van sy boedel, te goeder trou een of meer lewensassuransie-polisse ten gunste van sy vrou of kind of albei aangegaan het of aan of ten behoeve van haar of die kind of albei gecedeer het, dan word die polis of polisse as hy of hulle nie 'n onmiddellike bevoordeling, soas omskrywe in sub-artikel (2) van artikel *sewen-en-twintig*, uitmaak nie, hetsy van die vrou of kind of beide, tot 'n bedrag van nie meer as tweeduisend pond, benewens een of ander bonus wat in verband daarmee verskuldig mag wees, uitgesluit van sy insolvente boedel en as hy in gemeenskap van goedere getroud is, van die gemeenskaplike boedel van hom en sy vrou :

Met dien verstande dat—

(a) 'n polis wat op die tydstip van die sekwestrasie van die boedel gecedeer of verpand was aan 'n ander persoon as die vrou of kind van die versekerde of 'n trustee vir die vrou of kind tot die mate van die belang wat gecedeer is of deur die verpanding verseker is, nie soas voormeld uitgesluit word nie ;

(b) wanneer 'n polis slegs gedeeltelik soas voormeld uitgesluit is, dan kan die persoon wat geregtig is op die deel wat nie uitgesluit is nie, van die versekeraar wat die polis uitgereik het, verlang dat hy twee polisse uitreik tot vervanging van daardie polis : een vir die deel wat nie uitgesluit is nie en die ander vir die uitgeslote deel, ten gunste van die partye wat onderskeidelik daarop geregtig is. Die versekeraar moet daarop daardie polisse uitreik op koste van die versoeker en die oorspronklike polis verval daarop.

(3) In hierdie artikel omvat die uitdrukking „lewensassuransie-polis” of „polis” 'n kontrak tot verkryging van 'n uitkeringspolis, bonus of jaargeld na die dood van die versekerde of na verloop van 'n tydperk of na 'n sekere gebeurtenis, sowel as 'n ten volle inbetaalde polis, verleen teen oorgawe van of in ruil vir 'n gelykwaardige polis, dog omvat nie ander goed wat verkry is as vergoeding vir die oorgawe, verpanding of cessie van 'n polis nie.

29. (1) Elke vervreemding van sy goed, deur 'n skuldenaar nie meer as ses maande voor die sekwestrasie van sy boedel gedaan, waarvan die gevolg is dat aan een van sy skuldeisers bo 'n ander voorkeur verleen is, kan deur die hof vernietig word, as die skulde van die skuldenaar onmiddellik na die vervreemding die waarde van sy bate te bo gegaan het, tensy die persoon ten bate van wie die vervreemding gedaan is, bewys dat die vervreemding in die gewone loop van besigheid gedaan is en dat daarmee nie bedoel was om aan een skuldeiser bo 'n ander voorkeur te verleen nie, maar behoudens die bepalings van sub-artikel (2).

Vernietigbare
voorkeur.

(2) As die skulde van 'n skuldenaar wat van 'n bank geld geleen het deur sy rekening by daardie bank te oortrek, op 'n datum binne die termyn van ses maande onmiddellik voorafgaande aan die sekwestrasie van sy boedel, die waarde van sy bate te bo gegaan het, dan kan alle betalings deur daardie

bank after the said date may be set aside by the Court, in so far as the total of those payments exceeds the total of all sums lent by the said bank to the said debtor after the said date.

(3) Every disposition of property made under a power of attorney whether revocable or irrevocable, shall for the purposes of this section and of section *thirty* be deemed to be made at the time at which the transfer or delivery or mortgage of such property takes place.

Undue preference to creditors.

30. (1) If a debtor made a disposition of his property at a time when his liabilities exceeded his assets, with the intention of preferring one of his creditors above another, and his estate is thereafter sequestrated, the Court may set aside the disposition.

(2) For the purposes of this section and of section *twenty-nine* a surety for the debtor and a person in a position by law analogous to that of a surety shall be deemed to be a creditor of the debtor concerned.

Collusive dealings before sequestration.

31. (1) After the sequestration of a debtor's estate the Court may set aside any transaction entered into by the debtor before the sequestration, whereby he, in collusion with another person, disposed of property belonging to him in a manner which had the effect of prejudicing his creditors or of preferring one of his creditors above another.

(2) Any person who was a party to such collusive disposition shall be liable to make good any loss thereby caused to the insolvent estate in question and shall pay for the benefit of the estate, by way of penalty, such sum as the Court may adjudge, not exceeding the amount by which he would have benefited by such dealing if it had not been set aside; and if he is a creditor he shall also forfeit his claim against the estate.

(3) Such compensation and penalty may be recovered in any action to set aside the transaction in question.

Proceedings to set aside improper disposition.

32. (1) Proceedings to set aside any disposition of property under section *twenty-six*, *twenty-nine*, *thirty* or *thirty-one*, or for the recovery of compensation or a penalty under section *thirty-one*, may be taken by the trustee. If the trustee fails to take any such proceedings they may be taken by any creditor in the name of the trustee upon his indemnifying the trustee against all costs thereof.

(2) In any such proceedings the insolvent may be compelled to give evidence on a subpoena issued on the application of any party to the proceedings or he may be called by the Court to give evidence. When giving such evidence he may not refuse to answer any question on the ground that the answer may tend to incriminate him or on the ground that he is to be tried on a criminal charge and may be prejudiced at such a trial by his answer.

(3) When the Court sets aside any disposition of property under any of the said sections, it shall declare the trustee entitled to recover any property alienated under the said disposition or in default of such property the value thereof at the date of the disposition or at the date on which the disposition is set aside, whichever is the higher.

Improper disposition does not affect certain rights.

33. (1) A person who, in return for any disposition which is liable to be set aside under section *twenty-six*, *twenty-nine*, *thirty* or *thirty-one*, has parted with any property or security which he held or who has lost any right against another person, shall, if he acted in good faith, not be obliged to restore any property or other benefit received under such disposition, unless the trustee has indemnified him for parting with such property or security or for losing such right.

(2) Section *twenty-six*, *twenty-nine*, *thirty* or *thirty-one* shall not affect the rights of any person who acquired property in good faith and for value from any person other than a person whose estate was subsequently sequestrated.

Voidable sale of business.

34. (1) If a trader has alienated any business belonging to him or the goodwill or any property belonging to such a business (except goods sold in the ordinary course of that business), and his estate is sequestrated within six months of such alienation, the alienation shall be void as against the trustee of his estate, unless, not less than ten days and not more than thirty days before such alienation, he published a notice of such intended alienation in two issues of the *Gazette* and in two issues of a newspaper circulating in the district in which that business was carried on.

skuldenaar aan daardie bank na bedoelde datum gedoen deur die hof vernietig word, vir sover as wat die totaal van daardie betalings die totaal van alle somme deur bedoelde bank aan bedoelde skuldenaar na bedoelde datum geleen, te bo gaan.

(3) Elke vervreemding van goed kragtens 'n prokurasie, hetsy herroepbaar of onherroepbaar, word by die toepassing van hierdie artikel en artikel *dertig* geag gedaan te word op die tydstip wanneer die transport of lewering of beswaring met verband van daardie goed plaasvind.

30. (1) As 'n skuldenaar sy goed vervreem het op 'n tydstip toe sy skulde sy bate te bo gegaan het, met die bedoeling om aan een van sy skuldeisers bo 'n ander voorkeur te verleen en sy boedel word daarna gesekwestreer, dan kan die hof die vervreemding tot niet maak.

Onbehoorlike voorkeur aan skuldeisers.

(2) By die toepassing van hierdie artikel en van artikel *negen-en-twintig* word 'n borg vir die skuldenaar en iemand wat 'n posisie inneem wat regtens van gelyke aard is as die van 'n borg, beskou as 'n skuldeiser van die betrokke skuldenaar.

31. (1) Na die sekwestrasie van 'n skuldenaar se boedel kan die hof 'n regshandeling tot niet maak, wat die skuldenaar voor die sekwestrasie van sy boedel aangegaan het, waardeur hy met 'n ander saamgespan het om goed, wat aan hom behoort te vervreem op 'n wyse wat benadeling van sy skuldeisers of verlening van voorkeur aan een skuldeiser bo 'n ander ten gevolge gehad het.

Samespanning tot beskikking oor goed voor sekwestrasie.

(2) Iemand wat aan die samespanning deelgeneem het, is verplig om alle verlies wat die betrokke insolvente boedel daardeur gely het, te vergoed en hy moet as 'n boete ten bate van die boedel so 'n bedrag betaal as wat die hof mog bepaal, dog nie meer as die bedrag waarmee hy bevoordeel sou geword het as die vervreemding nie tot niet gemaak was nie, en as hy 'n skuldeiser is, verbeur hy ook sy vordering teen die boedel.

(3) Bedoelde skadevergoeding en boete kan ingevorderd word in 'n aksie tot vernietiging van die betrokke regshandeling.

32. (1) 'n Geding tot vernietiging van 'n vervreemding van goed kragtens artikel *ses-en-twintig*, *negen-en-twintig*, *dertig*, of *een-en-dertig*, of tot invordering van skadevergoeding of 'n boete kragtens artikel *een-en-dertig*, kan deur die kurator ingestel word. As die kurator in gebreke bly om so 'n geding in te stel, dan kan 'n skuldeiser dit namens die kurator instel, nadat hy die kurator teen alle koste in die geding gevrywaar het.

Geding tot vernietiging van ongeoorloofde vervreemding.

(2) In so 'n geding kan die insolvent gedwing word om getuienis af te lê deur 'n getuie-dagvaarding, uitgevaardig op versoek van een van die partye in die geding of hy kan deur die hof opgeroep word om getuienis af te lê. As hy sodanige getuienis aflê, kan hy nie weier om 'n vraag te beantwoord nie omrede dat die antwoord hom sou kan inkrimineer of omrede dat hy op 'n kriminele aanklag sal moet teregstaan en by die verhoor deur sy antwoord benadeel sou kan word.

(3) Wanneer die hof kragtens een van voormelde artikels 'n vervreemding van goed tot niet maak, dan verklaar die hof dat die kurator geregtig is om die vervreemde goed, of by gebreke van daardie goed, die waarde daarvan op die dag van die vervreemding of op die dag waarop die vervreemding tot niet gemaak word (na gelang die een of die ander meer is), in te vorder.

33. (1) Iemand wat as vergoeding vir 'n vervreemding wat kragtens artikel *ses-en-twintig*, *negen-en-twintig*, *dertig* of *een-en-dertig* tot niet gemaak kan word, goed of 'n sekuriteit wat hy besit het, afgestaan het of 'n reg teenoor 'n ander persoon verloor het, dit is, as hy te goeder trou gehandel het, nie verplig om enige goed of ander voordeel wat hy deur die vervreemding verkry het, terug te gee nie, tensy die kurator hom weens die afstand van daardie goed of sekuriteit of verlies van daardie reg skadeloos gestel het.

Ongeoorloofde wat beskikking verkort nie sekere regte nie.

(2) Artikels *ses-en-twintig*, *negen-en-twintig*, *dertig* en *een-en-dertig* maak geen inbreuk nie op die regte van iemand wat te goeder trou en vir waarde goed verkry het van iemand anders as 'n persoon wie se boedel later gesekwestreer is.

34. (1) As 'n handelaar 'n besigheid wat aan hom behoort het, of die klandisie of enige goed wat tot so 'n besigheid behoort het (behalwe goedere wat in die gewone loop van daardie besigheid verkoop is), vervreem het, en sy boedel word binne ses maande na daardie vervreemding gesekwestreer, dan is die vervreemding teenoor die kurator van sy boedel nietig, tensy hy minstens tien en hoogstens dertig dae voor daardie vervreemding 'n kennisgewing van daardie voorgenome vervreemding gepubliseer het in twee uitgawes van die *Staatskoerant* en in twee uitgawes van 'n nuusblad in omloop in die distrik waarin daardie besigheid gedryf is.

Vernietigbare verkoop van besigheid.

(2) As soon as any such notice is published, every liquidated liability of the said trader in connection with the said business, which would become due at some future date, shall fall due forthwith, if the creditor concerned demands payment of such liability: Provided that if such liability bears no interest, the amount of such liability which would have been payable at such future date if such demand had not been made, shall be reduced at the rate of six per cent. per annum of that amount, over the period between the date when payment is made and that future date.

(3) If any person who has any claim against the said trader in connection with the said business, has before such alienation, for the purpose of enforcing his claim, instituted proceedings against the said trader—

(a) in any court of law, and the person to whom the said business was alienated knew at the time of the alienation that those proceedings had been instituted; or

(b) in a Division of the Supreme Court having jurisdiction in the district in which the said business is carried on or in the magistrate's court of that district,

the alienation shall be void as against him for the purpose of such enforcement.

Uncompleted acquisition of immovable property before sequestration.

35. If an insolvent, before the sequestration of his estate, entered into a contract for the acquisition of immovable property which was not transferred to him, the trustee of his insolvent estate may enforce or abandon the contract. The other party to the contract may call upon the trustee by notice in writing to elect whether he will enforce or abandon the contract, and if the trustee has after the expiration of six weeks as from the receipt of the notice, failed to make his election as aforesaid and inform the other party thereof, the other party may apply to the Court by motion for cancellation of the contract and for an order directing the trustee to restore to the applicant the possession of any immovable property under the control of the trustee, of which the insolvent or the trustee gained possession or control by virtue of the contract, and the Court may make such order on the application as it thinks fit: Provided that this section shall not affect any right which the other party may have to establish against the insolvent estate, a non-preferent claim for compensation for any loss suffered by him as a result of the non-fulfilment of the contract.

Goods not paid for which debtor purchased not on credit.

36. (1) If a person, before the sequestration of his estate, by virtue of a contract of purchase and sale which provided for the payment of the purchase price upon delivery of the property in question to the purchaser, received any movable property without paying the purchase price in full, the seller may, after the sequestration of the purchaser's estate, reclaim that property if within ten days after delivery thereof he has given notice in writing to the purchaser or to the trustee of the purchaser's insolvent estate or to the Master, that he reclaims the property: Provided that if the trustee disputes the seller's right to reclaim the property, the seller shall not be entitled to reclaim it, unless he institutes, within fourteen days after having received notice that the trustee so disputes his right, legal proceedings to enforce his right.

(2) For the purposes of sub-section (1) a contract of purchase and sale shall be deemed to provide for the payment of the purchase price upon delivery of the property in question to the purchaser, unless the seller has agreed that the purchase price or any part thereof shall not be claimable before or at the time of such delivery.

(3) The trustee of the purchaser's insolvent estate shall not be obliged to restore any property reclaimed by the seller in terms of sub-section (1) unless the seller refunds to him every part of the purchase price which he has already received.

(4) Except as in this section provided, a seller shall not be entitled to recover any property which he sold and delivered to a purchaser whose estate was sequestrated after the sale, only by reason of the fact that the purchaser failed to pay the purchase price.

(5) The owner of the movable property which was in the possession or custody of a person at the time of the sequestration of that person's estate, shall not be entitled to recover that property if it has, in good faith, been sold as part of the said person's insolvent estate, unless the owner has, by notice in writing, given, before the sale, to the *curator bonis* if one has been appointed or to the trustee of the insolvent estate, or if there is no such *curator bonis* or trustee, to the Master, demanded a return of the property.

(6) If any such property has been sold as part of the insolvent estate, the former owner of that property may recover from

(2) Sodra so 'n kennisgewing gepubliseer word, dan word elke gelikwiderde skuld van bedoelde handelaar in verband met bedoelde besigheid, wat op 'n toekomstige dag invorderbaar sou word, dadelik invorderbaar as die betrokke skuldeiser betaling van die skuld eis: Met dien verstande dat as daardie skuld geen rente dra nie, die bedrag van daardie skuld, wat op daardie toekomstige dag verskuldig sou gewees het as voormelde eis van betaling nie ingestel was nie, verminder word met ses persent per jaar van daardie bedrag oor die tydperk tussen die dag waarop die betaling geskied en daardie toekomstige dag.

(3) As iemand wat 'n vordering teen bedoelde handelaar in verband met bedoelde besigheid het, voor daardie vervreemding, teneinde betaling van sy vordering te verkry, 'n regsgeeding teen bedoelde handelaar ingestel het—

(a) in enige geregshof, en die persoon aan wie bedoelde besigheid vervreemd is, ten tyde van die vervreemding geweet het dat daardie regsgeeding ingestel was; of

(b) in 'n afdeling van die Hooggeregshof wat bevoeg is in die distrik waarin bedoelde besigheid gedrywe word of in die magistratshof van daardie distrik;

dan is die vervreemding teenoor hom nietig sover as nodig is om sy vordering te laat geld.

35. As 'n insolvent voor die sekwestrasie van sy boedel 'n kontrak aangegaan het tot verkryging van onroerende goed wat nie aan hom getranspoteer is nie, dan kan die kurator van sy insolvente boedel die kontrak handhaaf of verwerp. Die ander party tot die kontrak kan die kurator skriftelik aansê om te kies of hy die kontrak wil handhaaf of verwerp en as die kurator ses weke na ontvangs van die aansegging in gebreke gebly het om soas voormeld sy keuse te doen en die ander party daarvan kennis te gee, dan kan die ander party by wyse van mosie die hof versoek om vernietiging van die kontrak en om 'n bevel aan die kurator dat hy die versoeker moet herstel in die besit van onroerende goed onder die beheer van die kurator, wat die insolvent of die kurator kragtens die kontrak in sy besit of onder sy beheer gekry het, en die hof kan na aanleiding van die versoek so 'n order uitvaardig as wat hy wenslik ag: Met dien verstande dat hierdie artikel geen inbreuk maak nie op een of ander reg wat die ander party mag hê om teenoor die insolvente boedel 'n nie-preferente vordering in te bring tot vergoeding van skade wat hy gely het as gevolg van die nie-nakoming van die kontrak.

Onvoltooide verkryging van onroerende goed voor sekwestrasie.

36. (1) As iemand, voor die sekwestrasie van sy boedel, kragtens 'n koopkontrak waarin beding is dat die koopprys betaal moet word by lewering van die betrokke goed aan die koper, roerende goed ontvang het sonder om die koopprys ten volle te betaal, dan kan die verkoper na die sekwestrasie van die boedel van die koper daardie goed terugeis as hy binne tien dae na lewering van die goed aan die koper of aan die kurator van die koper se insolvente boedel of aan die Meester skriftelik kennis gegee het dat hy die goed terugeis: Met dien verstande dat as die kurator die verkoper se reg om die goed terug te eis, betwis, die verkoper dit nie kan terugeis nie, tensy hy binne veertien dae nadat hy kennis ontvang het dat die kurator sy reg betwis, 'n regsgeeding instel om sy reg te handhaaf.

Onbetaalde goedere wat skuldenaar nie op krediet gekoop het nie.

(2) By die toepassing van sub-artikel (1) word veronderstel dat 'n koopkontrak beding dat die koopprys betaal moet word by lewering van die betrokke goed aan die koper, tensy die verkoper daarin toegestem het dat die koopprys of 'n deel daarvan nie voor of by die lewering opgevorder kan word nie.

(3) Die kurator van die koper se insolvente boedel is nie verplig om goed wat die verkoper kragtens sub-artikel (1) teruggeëis het, terug te gee nie, tensy die verkoper elke deel van die koopprys, wat hy reeds ontvang het, terugbetaal.

(4) Afgesien van die bepalinge van hierdie artikel is 'n verkoper nie geregtig om goed wat hy verkoop en gelewer het aan 'n koper wie se boedel na die verkoop gesekwestreer is, terug te vorder nie, alleen omdat die koper in gebreke gebly het om die koopprys te betaal.

(5) Die eienaar van roerende goed wat in besit of bewaring van iemand was tydens die sekwestrasie van die boedel van laasbedoelde persoon, is nie geregtig om daardie goed op te vorder nie as dit te goeder trou verkoop is as deel van die insolvente boedel van bedoelde persoon, tensy die eienaar voor die verkoping by skriftelike kennisgewing aan die *curator bonis* as een aangestel is of aan die kurator van die insolvente boedel, of as daar geen sodanige *curator bonis* of kurator is nie, aan die Meester, die teruggawe van die goed geëis het.

(6) As sodanige goed as deel van die insolvente boedel verkoop is, dan kan die vorige eienaar, voor die bekragtiging van 'n

the trustee, before the confirmation of any trustee's account in the estate in terms of section *one hundred and twelve*, the nett proceeds of the sale of that property (unless he has recovered the property itself from the purchaser), and thereupon he shall lose any right which he may have had to recover the property itself in terms of sub-section (5).

Effect of sequestration upon a lease.

37. (1) A lease entered into by any person as lessee shall not be determined by the sequestration of his estate, but the trustee of his insolvent estate may determine the lease by notice in writing to the lessor: Provided that the lessor may claim from the estate, compensation for any loss which he may have sustained by reason of the non-performance of the terms of such lease.

(2) If the trustee does not, within three months of his appointment notify the lessor that he desires to continue the lease on behalf of the estate, he shall be deemed to have determined the lease at the end of such three months.

(3) The rent due under any such lease, from the date of the sequestration of the estate of the lessee to the determination or the cession thereof by the trustee, shall be included in the costs of sequestration.

(4) The determination of the lease by the trustee in terms of this section shall deprive the insolvent estate of any right to compensation for improvements, other than improvements made in terms of an agreement with the lessor, made on the leased property during the period of the lease.

(5) A stipulation in a lease that the lease shall terminate or be varied upon the sequestration of the estate of either party to the lease, shall be null and void.

Contract of service terminated by insolvency of employer.

38. The sequestration of the estate of an employer shall terminate the contract of service between him and his employees, but any employee whose contract of service has been so terminated shall be entitled to claim compensation from the insolvent estate of his former employer for any loss which he may have suffered by reason of the termination of his contract of service prior to its expiration.

Time and place of meetings of creditors.

39. (1) Whenever the Master convenes any meeting of creditors as hereinafter provided, he shall appoint it to be held at such time and place as he considers to be most convenient for all parties concerned and may, if necessary, alter the time and place of any such meeting: Provided that he shall publish in the *Gazette* sufficient notice of any such alteration.

(2) All meetings of creditors held in the district wherein there is a Master's office shall be presided over by the Master. Meetings of creditors held in any other district shall be held in accordance with the direction of the Master and shall be presided over by the magistrate of the district, or by an officer holding the rank of chief or principal clerk designated by the Magistrate for that purpose or if no officer holding such rank is available, by any other officer in the public service designated by the magistrate for that purpose.

(3) The officer presiding at such a meeting shall keep a record of the proceedings, which he shall certify at the conclusion of the proceedings, and if he is not the Master, he shall transmit the record to the Master.

(4) If at a meeting of creditors held in a district where there is no Master, an officer other than the Magistrate presides, the presiding officer shall state in the record of the proceedings the reason for the magistrate's absence.

(5) The officer presiding at a meeting of creditors may, if necessary or desirable, adjourn the meeting from time to time.

(6) The place where a meeting of creditors is held shall be accessible to the public and the publication of any statement made at such a meeting shall be privileged to the same extent as is the publication of a statement made in a court of law.

First and second meetings of creditors.

40. (1) On the receipt of an order of the Court sequestrating an estate finally, the Master shall immediately convene by notice in the *Gazette*, a first meeting of the creditors of the estate for the proof of their claims against the estate and for the election of a trustee.

(2) The Master shall publish such notice on a date not less than ten days before the date upon which the meeting is to be held and shall in such notice state the time and place at which the meeting is to be held.

(3) After the first meeting of creditors and the appointment of a trustee, the Master shall appoint a second meeting of creditors for the proof of claims against the estate, and for the

rekening van die kurator in die boedel, volgens artikel *honderden-twaalf*, die netto-opbrengs van die verkoop van daardie goed van die kurator opvorder (tensy hy die goed self van die koper teruggekry het) en daarop verloor hy alle reg wat hy mag gehad het om die goed self volgens sub-artikel (5) op te vorder.

37. (1) 'n Huur, deur iemand as huurder aangegaan, word deur die sekwestrasie van sy boedel nie beëindig nie, dog die kurator van sy insolvente boedel kan die huur by skriftelike kennisgewing aan die verhuurder beëindig: Met dien verstande dat die verhuurder van die boedel vergoeding kan eis van enige verlies wat hy mog gely het as gevolg van die nie-nakoming van die bepaling van die huurkontrak.

Uitwerking van sekwestrasie op 'n huurkontrak.

(2) As die kurator nie binne drie maande vanaf sy aanstelling aan die verhuurder kennis gee nie dat hy die huur ten behoeve van die boedel wil voortset, dan word veronderstel dat hy die huur aan die end van daardie drie maande beëindig het.

(3) Die huurloon wat onder die huur verskuldig is, vanaf die dag van die sekwestrasie van die boedel van die huurder tot die beëindiging of cessie van die huur deur die kurator, word gereken as deel van die koste van sekwestrasie.

(4) Die beëindiging van die huur deur die kurator kragtens hierdie artikel, ontnem aan die insolvente boedel die reg op skadevergoeding weens verbeterings (met uitsondering van verbeterings aangebring, ingevolge 'n coreenkoms met die verhuurder) wat gedurende die huur aan die verhuurde goed aangebring is.

(5) 'n Beding in 'n huurkontrak dat die huur sal eindig of 'n verandering ondergaan met die sekwestrasie van die boedel van een van die partye tot die huur, is nietig.

38. Die sekwestrasie van die boedel van 'n werkgewer beëindig die dienskontrak tussen hom en sy werknemers, dog 'n werknemer wie se dienskontrak aldus beëindig geword is, is geregtig om van die insolvente boedel van sy vorige werkgewer vergoeding te eis van enige verlies wat hy mog gely het as gevolg van die beëindiging van sy dienskontrak voordat dit afgeloop het.

Dienskontrak word beëindig deur insolvensie van werkgewer.

39. (1) Wanneer die Meester 'n byeenkoms van skuldeisers belê, soas hieronder bepaal, moet hy dit belê op 'n tyd en plek wat hy as die gerieflikste beskou vir alle betrokke partye, en hy kan, indien nodig, die tyd en plek van so 'n byeenkoms verander, mits hy in die *Staatskoerant* 'n voldoende kennisgewing van so 'n verandering publiseer.

Tyd en plek van byeenkomste van skuldeisers.

(2) Op alle byeenkomste van skuldeisers gehou in 'n distrik waarin daar 'n meesterskantoor is, sit die Meester voor. Byeenkomste van skuldeisers in 'n ander distrik gehou, word volgens die Meester se voorskrifte, gehou onder voorsitterskap van die magistraat van die distrik of van 'n amptenaar met die rang van hoofklerk of eerste klerk, deur die magistraat daarvoor aangewys, of as geen amptenaar met daardie rang beskikbaar is nie, onder voorsitterskap van 'n ander amptenaar in die staatsdiens wat die magistraat daarvoor aangewys het.

(3) Die amptenaar wat by so 'n byeenkoms voorsit, moet van die verrigtings notule hou, wat hy aan die end van die verrigtings moet waarmerk en as hy nie die Meester is nie, moet hy die notule aan die Meester instuur.

(4) As op 'n byeenkoms van skuldeisers, gehou in 'n distrik waarin daar geen Meester is nie, 'n ander amptenaar as die magistraat voorsit, moet die voorsittende amptenaar in die notule van die verrigtings die rede vir die magistraat se afwesigheid aangee.

(5) Die amptenaar wat op 'n byeenkoms van skuldeisers voorsit, kan, indien nodig of wenslik, die byeenkoms van tyd tot tyd verdaag.

(6) Die plek waar 'n byeenkoms van skuldeisers gehou word, moet vir die publiek toeganklik wees en die bekendmaking van enige verklaring op so 'n byeenkoms afgelê, is in dieselfde mate geprivilegieerd as die bekendmaking van 'n verklaring in 'n geregshof afgelê.

40. (1) Na ontvangs van 'n order van die hof waardeur 'n boedel finaal gesekwestreer word, moet die Meester dadelik by kennisgewing in die *Staatskoerant* 'n eerste byeenkoms van skuldeisers van die boedel belê om hulle vorderings teen die boedel te bewys en om 'n kurator te kies.

Eerste en tweede byeenkomste van skuldeisers.

(2) Die Meester moet daardie kennisgewing publiseer op 'n dag nie minder as tien dae voor die dag waarop die byeenkoms gehou sal word en moet in die kennisgewing die tyd wanneer en die plek waar die byeenkoms gehou sal word, bepaal.

(3) Na die eerste byeenkoms van skuldeisers en die aanstelling van 'n kurator, moet die Meester 'n tweede byeenkoms van skuldeisers vasstel om vorderings teen die boedel te bewys

purpose of receiving the trustee's report on the affairs and condition of the estate, and of giving the trustee directions in connection with the administration of the estate. The trustee shall convene such meeting in the manner prescribed in sub-sections (1) and (2).

General meetings of creditors.

41. The trustee of an insolvent estate may at any time and shall, whenever he is thereto required by the Master or by a creditor or creditors representing one-fourth of the value of all claims proved against the estate, convene in the manner prescribed in section *forty*, a meeting of creditors, hereinafter called a general meeting, to give him directions concerning any matter relating to the administration of the estate. In the notice convening the meeting the trustee shall state the matters to be dealt with at the meeting.

Special meetings of creditors.

42. After the second meeting of creditors the trustee shall convene in the manner prescribed in section *forty* a special meeting of creditors for the proof of claims against the estate in question whenever he is thereto required by any interested person who at the same time tenders to the trustee payment of all expenses to be incurred in connection with such a meeting.

A creditor may register his name and address with trustee.

43. Any person who claims to be a creditor of an insolvent estate may register his name and address in the Union with the trustee of the estate upon payment to the trustee of a fee of ten shillings. Thereupon the trustee shall send to that address a notice of every meeting of creditors of that estate and a copy of every account which he is submitting to the Master. Failure on the part of the trustee to comply with a provision of this section shall constitute a failure to perform his duties but shall not invalidate anything done under this Act.

Proof of liquidated claims against estate.

44. (1) Any person or the representative of any person who has a liquidated claim against an insolvent estate, the cause of which arose before the sequestration of that estate, may, at any time before the final distribution of that estate in terms of section *one hundred and thirteen*, but subject to the provisions of section *one hundred and four*, prove that claim in the manner hereinafter provided: Provided that no claim shall be proved against an estate after the expiration of a period of three months as from the conclusion of the second meeting of creditors of the estate, except with leave of the Court or the Master, and on payment of such sum to cover the cost or any part thereof, occasioned by the late proof of the claim, as the Court or Master may direct.

(2) If a person who appears from the books of an insolvent estate to be a creditor of that estate, or who to the knowledge of the trustee in that estate is a creditor of that estate, has failed at the first or second meeting of creditors of that estate, to prove his claim against the estate, the trustee shall, immediately after the second meeting of creditors, notify him in writing of the sequestration of the estate.

(3) A claim made against an insolvent estate shall be proved at a meeting of the creditors of that estate to the satisfaction of the officer presiding at that meeting, who shall admit or reject the claim: Provided that the rejection of a claim shall not debar the claimant from proving that claim at a subsequent meeting of creditors or from establishing his claim by an action at law, but subject to the provisions of section *seventy-five*; and provided further that if a creditor has twenty-four or more hours before the commencement of a meeting of creditors submitted to the officer who is to preside at that meeting the affidavit and other documents mentioned in sub-section (4), he shall be deemed to have tendered proof of his claim at that meeting.

(4) Every such claim shall be proved by affidavit in a form corresponding substantially with Form C or D in the First Schedule to this Act. That affidavit may be made by the creditor or by any person fully cognizant of the claim, who shall set forth in the affidavit the facts upon which his knowledge of the claim is based and the nature and particulars of the claim, whether it was acquired by cession after the institution of the proceedings by which the estate was sequestrated, and if the creditor holds security therefor, the nature and particulars of that security and if he has not realised the security in terms of section *eighty-three*, the amount at which he values the security. The said affidavit or a copy thereof and any

en om die kurator se verslag oor die sake en toestand van die boedel te ontvang en om aan die kurator opdrag te gee in verband met die bereddering van die boedel. Die kurator moet daardie byeenkoms belê volgens die voorskrifte van sub-artikels (1) en (2).

41. Die kurator van 'n insolvente boedel kan te eniger tyd en moet as die Meester of 'n skuldeiser of skuldeisers wat een-vierde van die waarde van alle teen die boedel bewese vorderings verteenwoordig, dit verlang, volgens voorskrif van artikel *veertig* 'n byeenkoms van skuldeisers (hieronder 'n algemene byeenkoms van skuldeisers genoem) belê om hom opdrag te gee omtrent een of ander saak in verband met die bereddering van die boedel. In die kennisgewing waarin hy die byeenkoms belê moet die kurator melding maak van die sake wat op die byeenkoms sal moet behandel word.

Algemene byeenkomste van skuldeisers.

42. Na die tweede byeenkoms van skuldeisers moet die kurator volgens voorskrif van artikel *veertig* 'n spesiale byeenkoms van skuldeisers belê om vorderings teen die betrokke boedel te bewys, wanneer 'n belanghebbende dit verlang en gelyktydig aan die kurator betaling aanbied van alle koste wat in verband met die byeenkoms gemaak sal moet word.

Spesiale byeenkomste van skuldeisers.

43. Elkeen wat beweer dat hy 'n skuldeiser van 'n insolvente boedel is, kan sy naam en adres in die Unie by die kurator van daardie boedel aangee, teen betaling van 'n fooi van tien sjielings. Daarop moet die kurator aan daardie adres stuur 'n kennisgewing van elke byeenkoms van skuldeisers van daardie boedel en 'n afskrif van elke rekening wat die kurator aan die Meester voorlê. As 'n kurator versuim om aan 'n bepaling van hierdie artikel te voldoen, maak hy homself aan 'n pligsversuim skuldig maar dit maak nie ongeldig wat ingevolge hierdie Wet gedaan is nie.

Skuldeiser kan sy naam en adres by kurator aangee.

44. (1) Iemand of die verteenwoordiger van iemand wat 'n gelikwildeerde vordering teen 'n insolvente boedel het, waarvan die oorsaak voor die sekwestrasie van daardie boedel ontstaan het, kan te eniger tyd voor die finale verdeling van daardie boedel volgens artikel *honderd-en-dertien* daardie vordering volgens onderstaande voorskrifte bewys, dog behoudens die bepalings van artikel *honderd-en-vier*: Met dien verstande dat na verloop van 'n tydperk van drie maande vanaf die einde van die tweede byeenkoms van skuldeisers van 'n boedel, geen vordering teen die boedel bewys mag word nie sonder verlof van die hof of van die Meester en teen betaling van so 'n som tot dekking van die koste of 'n deel van die koste veroorsaak deur die vertraagde bewys van die vordering, as wat die hof of die Meester mag voorskryf.

Bewys van gelikwildeerde vorderings teen boedel.

(2) As iemand wat uit die boeke van 'n insolvente boedel blyk 'n skuldeiser van daardie boedel te wees of van wie die kurator van daardie boedel weet dat hy 'n skuldeiser van daardie boedel is, in gebreke gebly het om op die eerste of tweede byeenkoms van skuldeisers van daardie boedel, sy vordering teen die boedel te bewys, dan moet die kurator onmiddellik na die tweede byeenkoms van skuldeisers aan hom skriftelik kennis gee van die sekwestrasie van die boedel.

(3) 'n Vordering wat teen 'n insolvente boedel ingebring word, moet op 'n byeenkoms van die skuldeisers van daardie boedel gestaaf word deur bewyse wat die amptenaar wat op daardie byeenkoms voorsit, voldoende ag, en hy moet die vordering of toelaat of afwys: Met dien verstande dat die afwysing van 'n vordering die eiser nie belet om sy vordering op 'n latere byeenkoms van skuldeisers of in 'n regsgeging te bewys nie, dog behoudens die bepalings van artikel *vyf-en-sewentig*; en met dien verstande voorts, dat as 'n skuldeiser vier-en-twintig uur of meer voor die begin van 'n byeenkoms van skuldeisers aan die amptenaar wat op daardie byeenkoms sal voorsit, die beëdigde verklaring en ander dokumente vermeld in sub-artikel (4) voorgelê het, veronderstel word dat hy die bewys van sy vordering op daardie byeenkoms aangebied het.

(4) Elke sodanige vordering moet bewys word deur 'n beëdigde verklaring in 'n vorm wat in hoofsaak ooreenkom met Formulier C. of D. in die Eerste Bylae tot hierdie Wet. Daardie beëdigde verklaring kan afgelê word deur die skuldeiser of deur iemand ten volle bekend met die vordering, wat in die beëdigde verklaring moet vermeld die feite waarop sy kennis van die vordering berus en die aard en besonderhede van die vordering, of dit verkry is deur cessie na die begin van die geding waardeur die boedel gesekwestreer is en as die skuldeiser in besit van sekuriteit daarvoor is, die aard en besonderhede van daardie sekuriteit en as hy die sekuriteit nie te gelde gemaak het nie volgens artikel *drie-en-tagtig*, die bedrag waarop hy die sekuriteit waardeer. As voormelde beëdigde verklaring of 'n afskrif

documents submitted in support of the claim shall be delivered at the office of the officer who is to preside at the meeting of creditors not later than twenty-four hours before the advertised time of the meeting at which the creditor concerned intends to prove the claim, failing which the claim shall not be admitted to proof at that meeting, unless the presiding officer is of opinion that through no fault of the creditor he has been unable to deliver such evidences of his claim within the prescribed period: Provided that if a creditor has submitted an incorrect claim, he may, with the consent in writing of the Master given after consultation with the trustee and on such conditions as the Master may think fit to impose, correct his claim or submit a fresh correct claim.

(5) Any document by this section required to be delivered before a meeting of creditors at the office of the officer who is to preside at that meeting, shall be open for inspection at such office during office hours free of charge by any creditor, the trustee or the insolvent or the representative of any of them.

(6) A claim against an insolvent's estate for payment of the purchase price of goods sold and delivered to the insolvent on an open account shall not be admitted to proof unless there have been submitted to the insolvent, not later than three months after the opening of the account, a detailed statement thereof, and thereafter at intervals not exceeding three months detailed statements of account, each from the date up to which the previous statement was made up.

(7) The officer presiding at any meeting of creditors may of his own motion or at the request of the trustee or his agent or at the request of any creditor who has proved his claim, or his agent, call upon any person present at the meeting who wishes to prove or who has at any time proved a claim against the estate to take an oath, to be administered by the said officer, and to submit to interrogation by the said officer or by the trustee or his agent or by a creditor or the agent of a creditor whose claim has been proved, in regard to the said claim.

(8) If any person who wishes to prove or who has at any time proved a claim against the estate is absent from a meeting of creditors the officer who presided or who presides thereat, may summon him in writing to appear before him at a place and time stated in the summons, for the purpose of being interrogated by the said officer or by the trustee or his agent or by a creditor or the agent of a creditor whose claim has been proved, and if he appears in answer to the summons the provisions of sub-section (7) shall apply.

(9) If any such person fails without reasonable excuse to appear in answer to such summons or having appeared or when present at any meeting of creditors refuses to take the oath or to submit to the said interrogation or to answer fully and satisfactorily any lawful question put to him, his claim, if already proved, may be expunged by the Master, and if not yet proved, may be rejected.

Trustee to examine claims.

45. (1) After a meeting of creditors the officer who presided thereat shall deliver to the trustee every claim proved against the insolvent estate at that meeting and every document submitted in support of the claim.

(2) The trustee shall examine all available books and documents relating to the insolvent estate for the purpose of ascertaining whether the estate in fact owes the claimant the amount claimed.

(3) If the trustee disputes a claim after it has been proved against the estate at a meeting of creditors, he shall report the fact in writing to the Master and shall state in his report his reasons for disputing the claim. Thereupon the Master may confirm the claim, or he may, after having afforded the claimant an opportunity to substantiate his claim, reduce or disallow the claim, and if he has done so, he shall forthwith notify the claimant in writing: Provided that such reduction or disallowance shall not debar the claimant from establishing his claim by an action at law, but subject to the provisions of section *seventy-five*.

Set-off.

46. If two persons have entered into a transaction the result whereof is a set-off, wholly or in part, of debts which they owe one another and the estate of one of them is sequestrated

daarvan en die stukke wat tot staving van die vordering voorgelê mog word, nie op die kantoor van die amptenaar wat op die byeenkoms van skuldeisers sal voorsit afgegee word nie later as vier-en-twintig uur voor die aangekondigde tyd van die byeenkoms waarop die betrokke skuldeiser voornemens is om sy vordering te bewys, dan word die bewys van die vordering nie op daardie byeenkoms toegelaat nie, tensy die voorsittende amptenaar van oordeel is dat die skuldeiser buiten sy skuld nie in staat was om bedoelde bewyse van sy vordering binne die voorgeskrewe tydperk af te gee nie: Met dien verstande dat as 'n skuldeiser 'n onjuiste vordering voorgelê het, hy dit met skriftelike toestemming van die Meester, verleen na beraadslaging met die kurator en op die voorwaardes wat die Meester mag wenslik ag om te stel, kan verbeter of 'n nuwe juiste vordering kan voorlê.

(5) Elke stuk wat volgens voorskrif van hierdie artikel voor 'n byeenkoms van skuldeisers afgegee moet word op die kantoor van die amptenaar wat op daardie byeenkoms sal voorsit, kan op bedoelde kantoor gedurende kantooreure kosteloos ingesien word deur elke skuldeiser, die kurator of die insolvent of die verteenwoordiger van enigeen van hulle.

(6) Die bewys van 'n vordering teen die boedel van 'n insolvent vir betaling van die koopprys van goedere wat aan die insolvent op 'n ope rekening verkoop en gelewer is, word nie toegelaat nie tensy aan die insolvent nie later as drie maande na die opening van die rekening, 'n gespesifiseerde rekening en daarna met tussenpose van nie meer as drie maande, gespesifiseerde rekenings, elk sedert die datum tot wanneer die vorige rekening opgemaak was, voorgelê is nie.

(7) Die amptenaar wat op 'n byeenkoms van skuldeisers voorsit, kan uit eie beweging of op versoek van die kurator of sy verteenwoordiger of op versoek van 'n skuldeiser wat sy vordering bewys het of sy verteenwoordiger iemand wat op die byeenkoms aanwesig is en wat 'n vordering teen die boedel wil bewys of te eniger tyd bewys het, oproep om 'n eed af te lê, wat bedoelde amptenaar aan hom moet oplê, en homself deur bedoelde amptenaar of deur die kurator of sy verteenwoordiger of deur 'n skuldeiser of die verteenwoordiger van 'n skuldeiser wie se vordering bewys is, omtrent bedoelde vordering te laat ondervra.

(8) As iemand wat 'n vordering teen die boedel wil bewys of te eniger tyd bewys het van 'n byeenkoms van skuldeisers afwesig is, dan kan die amptenaar wat daarop voorsit of voorgesit het, hom skriftelik dagvaar om op 'n plek en tyd in die dagvaarding vermeld, voor hom te verskyn om ondervra te word deur bedoelde amptenaar of deur die kurator of sy verteenwoordiger of deur 'n skuldeiser of die verteenwoordiger van 'n skuldeiser wie se vordering bewys is, en as hy aan die dagvaarding gevolg gee en verskyn is die bepalings van sub-artikel (7) van toepassing.

(9) As so iemand sonder redelike verontskuldiging in gebreke bly om aan die dagvaarding gevolg te gee en te verskyn of as hy verskyn het of op 'n byeenkoms van skuldeisers aanwesig is, weier om die eed af te lê of homself te laat ondervra of om volledig en op bevredigende wyse te antwoord op 'n wettige vraag wat aan hom gestel word, dan kan die Meester sy vordering, as dit reeds bewys is, skrap en as dit nog nie bewys is nie, kan dit afgewys word.

45. (1) Na 'n byeenkoms van skuldeisers moet die amptenaar wat daarop voorgesit het, elke vordering wat op daardie byeenkoms teen die insolvente boedel bewys is en elke stuk tot staving van die vordering wat voorgelê is, aan die kurator oorhandig. Kurator moet vorderings ondersoek.

(2) Die kurator moet alle beskikbare boeke en stukke wat op die insolvente boedel betrekking het, ondersoek om na te gaan of die boedel inderdaad aan die eiser die gevorderde bedrag skuld.

(3) As die kurator 'n vordering betwis nadat dit op 'n byeenkoms van skuldeisers teen die boedel bewys is, moet hy daardie feit skriftelik aan die Meester berig en in sy berig die redes aanvoer waarom hy die vordering betwis. Die Meester kan daarop die vordering bekragtig, of hy kan, nadat hy die eiser geleentheid gegee het om sy vordering te staaf, die vordering verminder of skrap, en as hy dit gedoen het moet hy die eiser onmiddellik daarvan skriftelik in kennis stel: Met dien verstande dat daardie vermindering of skrapping die eiser nie belet om sy vordering in 'n regsgeding te bewys nie, dog behoudens die bepalings van artikel vyf-en-sewentig.

46. As twee persone 'n regshandeling aangegaan het, waarvan die gevolg 'n algehele of gedeeltelike vergelyking is van skulde van die een aan die ander en die boedel van die ene word Skuldvergelyking.

within a period of six months after the taking place of the set-off, or if a person who had a claim against another person (hereinafter in this section referred to as the debtor) has ceded that claim to a third person against whom the debtor had a claim at the time of the cession, with the result that the one claim has been set-off, wholly or in part, against the other, and within a period of one year after the cession the estate of the debtor is sequestrated; then the trustee of the sequestrated estate may in either case abide by the set-off or he may, if the set-off was not effected in the ordinary course of business, with the approval of the Master disregard it and call upon the person concerned to pay to the estate the debt which he would owe it but for the set-off, and thereupon that person shall be obliged to pay that debt and may prove his claim against the estate as if no set-off had taken place.

Right of retention and landlord's legal hypothec.

47. If a creditor of an insolvent estate who is in possession of any property belonging to that estate, to which he has a right of retention or over which he has a landlord's legal hypothec, delivers that property to the trustee of that estate, at the latter's request, he shall not thereby lose the security afforded him by his right of retention or lose his legal hypothec, if, when delivering the property, he notifies the trustee in writing of his rights and in due course proves his claim against the estate: Provided, that a right to retain any book or document of account which belongs to the insolvent estate or relates to the insolvent's affairs shall not afford any security or preference in connection with any claim against the estate.

Proof of conditional claim.

48. A creditor whose claim against an insolvent estate is dependent upon a condition, may prove that claim in the manner set forth in section *forty-four* but subject to the following provisions:—

- (a) If the condition is of such a nature that it will be fulfilled, if at all, within a year of the sequestration, the creditor may prove his claim, but he shall have no vote in respect of that claim at a meeting of creditors. If a dividend is awarded on such a claim it shall be paid by the trustee to the Master, who shall pay it to the creditor, if the condition has been fulfilled, and otherwise shall return it to the trustee for distribution among the other creditors.
- (b) If the condition is not such as is described in paragraph (a), the creditor may call upon the trustee at a meeting of creditors to place a value upon the claim and the trustee shall thereupon lay before the officer presiding at that meeting a written valuation of the claim with the reasons therefor, and the presiding officer shall admit that claim at such value as he may determine, or reject it: Provided that when the condition has been fulfilled, before the confirmation, by the Master, in terms of section *one hundred and twelve*, of a trustee's account in the liquidation of the estate, the creditor may prove his claim as if it had been unconditional.

Claims against partnership distinct from claims against partners.

49. When the estate of a partnership and the estates of the partners in that partnership are under sequestration simultaneously, the creditors of the partnership shall not be entitled to prove claims against the estate of a partner and the creditors of a partner shall not be entitled to prove claims against the estate of the partnership; but the trustee of the estate of the partnership shall be entitled to any balance of a partner's estate that may remain over after satisfying the claims of the creditors of the partner's estate in so far as that balance is required to pay the partnership's debts and the trustee of the estate of a partner shall be entitled to any balance of the partnership's estate that may remain over after satisfying the claims of the creditors of the partnership estate, so far as that partner would have been entitled thereto, if his estate had not been sequestrated.

Arrear interest. Debt due after sequestration.

50. (1) When a debt bearing interest became due before the sequestration of the debtor's estate, the creditor to whom that debt is owing may include in his claim against the debtor's estate in respect of that debt any interest thereon, which is in arrear, to the date of the sequestration.

gesekwestreer binne 'n tydperk van ses maande nadat die skuldvergelyking plaasgevind het, of as iemand wat 'n vordering had teen 'n ander (hieronder in hierdie artikel die skuldenaar genoem) daardie vordering gecedeer het aan 'n derde persoon teen wie die skuldenaar tydens die cessie 'n vordering had, met die gevolg dat die een vordering geheel of gedeeltelik deur die ander vergelyk is, en die boedel van die skuldenaar word binne 'n tydperk van een jaar na die cessie gesekwestreer, dan kan die kurator van die gesekwestreerde boedel in die een sowel as in die ander geval hom aan die skuldvergelyking hou of, as die skuldvergelyking nie in die gewone loop van besigheid plaasgevind het nie, kan hy dit met goedkeuring van die Meester verontagsaam en van die betrokke persoon verlang dat hy aan die boedel die skuld moet betaal wat hy hom, afgesien van die skuldvergelyking, sou skuld, en daarop is daardie persoon verplig om daardie skuld te betaal en kan sy vordering teen die boedel bewys asof geen skuldvergelyking plaasgevind het nie.

47. As 'n skuldeiser van 'n insolvente boedel wat in besit is van goed wat tot daardie boedel behoort, waarop hy 'n retensiereg of 'n stilswygende hipoteek van 'n verhuurder van onroerende goed het, daardie goed aan die kurator van die boedel op sy versoek oorhandig, dan verloor hy daardeur nie die sekuriteit wat sy retensiereg aan hom verleen of sy stilswygende hipoteek nie, as hy, wanneer hy die goed oorhandig, aan die kurator van sy regte skriftelik kennis gee en in die gewone loop sy vordering teen die boedel bewys: Met dien verstande dat 'n reg van retensie van 'n rekeningboek of rekening wat tot die insolvente boedel behoort, of wat betrekking het op die insolvent se sake, geen sekuriteit of preferensie verleen nie in verband met 'n vordering teen die boedel.

Reg van retensie of stilswygende hipoteek van verhuurder.

48. 'n Skuldeiser wie se vordering teen 'n insolvente boedel van 'n voorwaarde afhanklik is, kan daardie vordering volgens die voorskrifte van artikel vier-en-veertig bewys, dog behoudens die volgende bepalinge:—

Bewys van voorwaardelike vordering.

(a) As die voorwaarde van die aard is dat hy, as hy vervul word, binne een jaar na die sekwestrasie vervul sal word, dan kan die skuldeiser sy vordering bewys, dog hy het geen stem op 'n byeenkoms van skuldeisers op grond van daardie vordering nie. As 'n diwidend op so 'n vordering toegeken word, moet die kurator dit aan die Meester uitbetaal en die Meester moet dit aan die skuldeiser uitbetaal as die voorwaarde vervul is en so nie, moet hy dit aan die kurator teruggee om onder die ander skuldeisers verdeel te word.

(b) As die voorwaarde nie van 'n aard is soas bedoel in paragraaf (a) nie, dan kan die skuldeiser op 'n byeenkoms van skuldeisers van die kurator verlang dat hy die vordering moet waardeer en die kurator moet daarop aan die amptenaar wat op daardie byeenkoms voorsit, 'n skriftelike met redes omklede waardering van die vordering voorlê en die voorsittende amptenaar moet daardie vordering toelaat teen so 'n waarde as wat hy mog bepaal of dit afwys: Met dien verstande dat wanneer die voorwaarde vervul is voordat die Meester volgens artikel honderd-en-twaalf 'n rekening van die kurator by die likwidasië van die boedel bekragtig het, die skuldeiser sy vordering kan bewys asof dit onvoorwaardelik was.

49. Wanneer die boedel van 'n vennootskap en die boedels van die vennote van daardie vennootskap gelyktydig onder sekwestrasie is, dan is die skuldeisers van die vennootskap nie geregtig om vorderings teen die boedel van 'n vennoot te bewys nie, en die skuldeisers van 'n vennoot is nie geregtig om vorderings teen die boedel van die vennootskap te bewys nie; dog die kurator van die boedel van die vennootskap is geregtig op al wat uit 'n vennoot se boedel mog oorskiet na vereffening van die vorderings van die skuldeisers van die vennoot se boedel, vir sover as wat daardie oorskot nodig is om die vennootskap se skulde te betaal en die kurator van die boedel van 'n vennoot is geregtig op al wat uit die vennootskap se boedel mag oorskiet na vereffening van die vorderings van die skuldeisers van die vennootskap se boedel, vir sover as wat daardie vennoot daarop geregtig sou gewees het, as sy boedel nie gesekwestreer was nie.

Vorderings teen vennootskap is afgesonderd van vorderings teen vennote.

50. (1) Wanneer 'n skuld wat rente dra, voor die sekwestrasie van die skuldenaar se boedel opvorderbaar geword het, dan kan die skuldeiser aan wie daardie skuld verskuldig is, by sy vordering teen die skuldenaar se boedel weens daardie skuld insluit alle agterstallige rente wat daarop verskuldig mag wees, tot op die dag van die sekwestrasie.

Agterstallige rente. Skuld wat na sekwestrasie opvorderbaar word.

(2) If a person, before the sequestration of his estate, incurred a debt which is payable upon a date (hereinafter referred to as the due date) after the date of the sequestration, the creditor, towards whom the debt was incurred, may claim from the insolvent estate the full amount of that debt as if it were payable on the date of sequestration: Provided that if the debt bears no interest and a distribution account in the estate in question is confirmed by the Master in terms of section *one hundred and twelve* before the due date, an amount shall be paid on that claim equal to the amount which would have been paid thereon under the distribution account if the debt had been payable on the date of sequestration, less six per cent of that amount per annum, reckoned from the date of sequestration to the due date.

Withdrawal of claim already proved against estate.

51. (1) A creditor who has proved a claim against an insolvent estate may withdraw his claim by registered letters addressed to the Master and to the trustee and the latter shall in writing notify the other creditors of the withdrawal: Provided that the creditor so withdrawing his claim shall remain liable in terms of section *one hundred and six* for his pro rata share of the costs of sequestration and all costs lawfully incurred by the trustee in connection with the sequestration up to the time when he received the creditor's letter of withdrawal.

(2) A creditor who has so withdrawn his claim may, by registered letters addressed to the Master and to the trustee, cancel his withdrawal, but if he does so, he shall not become liable for any costs in connection with the sequestration for which he was not liable at the time of cancellation and he shall not be entitled to any payment out of the estate in respect of his claim until all the other creditors who have proved their claims before such cancellation have been paid in full.

Voting at meeting of creditors.

52. (1) Save as in this section and in section *forty-eight* is otherwise provided, every creditor of an insolvent estate shall be entitled to vote at any meeting of the creditors of that estate as soon as his claim against the estate has been proved.

(2) The vote of any creditor shall be reckoned according to the value of his claim, except when it is provided in this Act that votes shall be reckoned in number.

(3) The vote of a creditor shall in no case be reckoned in number, unless his claim is of the value of at least thirty pounds.

(4) A creditor may not vote in respect of any claim which was ceded to him after the commencement of the proceedings by which the estate was sequestrated.

(5) A creditor holding any security for his claim shall, except in the election of a trustee and upon any matter affecting that security, be entitled to vote only in respect of the amount by which his claim exceeds the amount at which he valued his security when proving his claim, or if he did not value his security, in respect of the amount by which his claim exceeds the amount of the proceeds of the realization of his security in terms of section *eighty-three*.

Questions upon which creditors may vote.

53. (1) A creditor may vote at a meeting of creditors upon all matters relating to the administration of the estate, but may not vote in regard to matters relating to the distribution of the assets of the estate, except for the purpose of directing the trustee to contest, compromise or admit any claim against the estate.

(2) Subject to the provisions of section *fifty-four* and sub-section (7) of section *one hundred and nineteen* every matter upon which a creditor may vote shall be determined by the majority of votes reckoned in accordance with sub-section (2) of section *fifty-two*, and every creditor may vote either personally or by an agent specially authorized thereto or acting under his general power of attorney.

(3) Every resolution of creditors at a meeting of creditors and the result of the voting on any matter as declared by the officer presiding at that meeting, shall be recorded upon the minutes of the meeting and shall be binding upon the trustee in so far as it is a direction to him; and no other direction of creditors shall be binding upon him.

(4) Any direction by creditors which infringes the rights of any creditor may be set aside by the Court on the application of the creditor whose rights are affected or of the trustee with the consent of the Master.

(2) As iemand voor die sekwestrasie van sy boedel 'n skuld aangegaan het wat opvorderbaar word op 'n dag (hieronder die vervaldag genoem) na die dag van die sekwestrasie, dan kan die skuldeiser teenoor wie die skuld aangegaan is die volle bedrag van die skuld van die insolvente boedel vorder, asof dit op die dag van die sekwestrasie opvorderbaar was: Met dien verstande dat as die skuld geen rente dra nie en 'n distribusie-rekening in die betrokke boedel voor die vervaldag deur die Meester volgens artikel *honderd-en-twaalf* bekragtigt word, 'n bedrag op bedoelde vordering uitbetaal word, gelyk aan die bedrag wat volgens die distribusie-rekening daarop sou uitbetaal geword het, as die skuld op die sekwestrasiedag opvorderbaar gewees het, met aftrek van ses persent van daardie bedrag per jaar, gereken vanaf die sekwestrasiedag tot die vervaldag.

51. (1) 'n Skuldeiser wat 'n vordering teen 'n insolvente boedel bewys het, kan sy vordering terugtrek deur geregistreerde briewe gerig aan die Meester en aan die kurator, en laasbedoelde moet die ander skuldeisers van die terugtrekking skriftelik in kennis stel: Met dien verstande dat die skuldeiser, wat aldus sy vordering terugtrek, volgens artikel *honderden-ses* aanspreeklik bly vir sy eweredige aandeel van die koste van sekwestrasie en alle koste wettig deur die kurator in verband met die sekwestrasie aangegaan tot op die tydstip toe hy die skuldeiser se brief van terugtrekking ontvang het.

Terugtrekking van reeds teen boedel bewese vordering.

(2) 'n Skuldeiser wat aldus sy vordering teruggetrek het, kan sy terugtrekking deur geregistreerde briewe gerig aan die Meester en die kurator, weer intrek; dog as hy dit doen, word hy nie aanspreeklik nie vir koste in verband met die sekwestrasie waarvoor hy op die tydstip van die intrekking nie aanspreeklik was nie en hy is nie geregtig op betaling uit die boedel weens sy vordering totdat alle ander skuldeisers, wat hulle vorderings voor daardie intrekking bewys het, ten volle uitbetaal is.

52. (1) Behalwe vir sover hierdie artikel en artikel *agten-veertig* anders bepaal, is elke skuldeiser van 'n insolvente boedel geregtig om te stem op 'n byeenkoms van die skuldeisers van daardie boedel, sodra sy vordering teen die boedel bewys is.

Stemming op byeenkoms van skuldeisers.

(2) Die stem van 'n skuldeiser word bereken volgens die waarde van sy vordering, behalwe waar in hierdie Wet bepaal word dat stemme volgens getal bereken sal word.

(3) Die stem van 'n skuldeiser word in geen geval volgens getal bereken nie, tensy die waarde van sy vordering minstens dertig pond bedra.

(4) 'n Skuldeiser mag nie stem nie op grond van 'n vordering wat aan hom geedeer is na die begin van die geding waardeur die boedel gesekwestreer geword is.

(5) 'n Skuldeiser wat in besit is van sekuriteit vir sy vordering is, behalwe by die verkiesing van 'n kurator en aangaande 'n saak wat sy sekuriteit raak, slegs geregtig om te stem op grond van die oorskot van sy vordering bo die bedrag waarop hy sy sekuriteit gewaardeer het toe hy sy vordering bewys het of as hy nie sy sekuriteit gewaardeer het nie, op grond van die oorskot van sy vordering bo die bedrag van die opbrings van die tegeldemaking van sy sekuriteit volgens artikel *drie-en-tagtig*.

53. (1) 'n Skuldeiser kan op 'n byeenkoms van skuldeisers stem oor alle sake wat op die beredding van die boedel betrekking het, dog kan nie stem oor sake wat betrekking het op die verdeling van die bate van die boedel nie, behalwe om die kurator te gelas om 'n vordering teen die boedel te betwis of toe te laat of 'n skikking daaromtrent aan te gaan.

Sake waaroor skuldeisers kan stem.

(2) Behoudens die bepalinge van artikel *vier-en-veertig* en sub-artikel (7) van artikel *honderd-en-negentien*, word elke saak waaroor 'n skuldeiser kan stem, beslis deur die meerderheid van stemme, bereken volgens sub-artikel (2) van artikel *twee-en-veertig* en elke skuldeiser kan stem of persoonlik, of deur 'n spesiaal daartoe gevolmagtigde, of deur iemand wat kragtens sy algemene prokurasie optree.

(3) Elke besluit van skuldeisers op 'n byeenkoms van skuldeisers en die uitslag van 'n stemming oor een of ander saak, soas verklaar deur die amptenaar wat op daardie byeenkoms voorsit, moet aangeteken word in die notule van die byeenkoms en verbind die kurator vir sover as wat dit 'n opdrag aan hom bevat; en geen ander opdrag van die skuldeisers verbind hom nie.

(4) 'n Opdrag van skuldeisers wat inbreuk maak op die regte van 'n skuldeiser kan op versoek van die skuldeiser wie se regte aangetas word of van die kurator met toestemming van die Meester, deur die hof tot niet gemaak word.

(5) The creditors shall not be entitled to direct the trustee to employ or not to employ a particular attorney or auctioneer in connection with the administration of the estate but the creditors may recommend the employment of a particular attorney or auctioneer and if the trustee does not accept the recommendation, any creditor may submit the matter to the Master whose decision, after hearing the trustee, shall be final.

Election of trustee. 54. (1) At the first meeting of the creditors of an insolvent estate the creditors who have proved their claims against the estate may elect one or two trustees.

(2) Any person who has obtained a majority in number and in value of the votes of the creditors entitled to vote, who voted at such meeting, shall be elected trustee.

(3) If no person has obtained such a majority of votes then—

(a) the person who has obtained a majority of votes in number, when no other person has obtained a majority of votes in value, or has obtained a majority of votes in value, when no other person has obtained a majority of votes in number, shall be deemed to be elected sole trustee;

(b) if one person has obtained a majority of votes in value and another a majority of votes in number, both such persons shall be deemed to be elected trustees, and if either person declines a joint trusteeship, the other shall be deemed to be elected sole trustee.

(4) For the purposes of this section "majority of votes in number" means a greater number of votes (apart from the value of the claims which they represent, but subject to the provisions of sub-section (3) of section *fifty-two*) than has been obtained by any competitor and "majority of votes in value" means votes representing claims of a greater aggregate value than the votes obtained by any competitor.

(5) If at any meeting of creditors convened for the purpose of electing a trustee, no trustee is elected and the estate is not vested at the time of that meeting in a provisional trustee, the Master may appoint a trustee and if he does not so appoint a trustee, the Master or the insolvent with the Master's consent, may apply, at the cost of the estate, to the Court by petition to set aside the sequestration and the Court may make such order thereon as it thinks fit.

Persons disqualified from being trustees.

55. Any of the following persons shall be disqualified from being elected or appointed a trustee:—

(a) Any insolvent;

(b) any person related to the insolvent concerned by consanguinity or affinity within the third degree;

(c) a minor or any other person under legal disability;

(d) any person who does not reside in the Union or in the Mandated Territory of South-West Africa;

(e) any person who has an interest opposed to the general interest of the creditors of the insolvent estate;

(f) a former trustee disqualified under section *seventy-two*;

(g) any person declared under section *fifty-nine* to be incapacitated for election as trustee, while any such incapacity lasts, or any person removed by the Court, on account of misconduct, from an office of trust;

(h) a corporate body;

(i) any person who has at any time been convicted (whether in the Union or elsewhere) of theft, fraud, forgery or uttering a forged document, or perjury and has been sentenced therefor to serve a term of imprisonment without the option of a fine, or to a fine exceeding ten pounds;

(j) any person who was, at any time, a party to an agreement or arrangement with any debtor or creditor whereby he undertook that he would, when performing the functions of a trustee or assignee, grant or endeavour to grant to, or obtain or endeavour to obtain for any debtor or creditor any benefit not provided for by law;

(5) Die skuldeisers is nie geregtig om die kurator te gelas om 'n bepaalde prokureur of venduafslaer aan te stel of nie aan te stel nie in verband met die bereddering van die boedel, dog die skuldeisers kan die aanstelling van 'n bepaalde prokureur of venduafslaer aanbeveel en as die kurator nie die aanbeveling aanvaar nie, kan enige skuldeiser die saak voorlê aan die Meester, wie se beslissing, na aanhoring van die kurator, finaal is.

54. (1) Op die eerste byeenkoms van die skuldeisers van 'n insolvente boedel, kan die skuldeisers wat hulle vorderings teen die boedel bewys het, een of twee kurators kies. Verkiezing van kurator.

(2) Iemand op wie die meerderheid, volgens getal en volgens waarde, van die stemme van die stemgeregtigde skuldeisers, wat op daardie byeenkoms gestem het, uitgebring is, word as kurator gekies.

(3) As op niemand so 'n meerderheid van stemme uitgebring is nie, dan—

(a) word die persoon op wie die meerderheid van stemme volgens getal uitgebring is, as op niemand anders 'n meerderheid van stemme volgens waarde uitgebring is nie, of op wie die meerderheid van stemme volgens waarde uitgebring is, as op niemand anders 'n meerderheid van stemme volgens getal uitgebring is nie, geag as enige kurator gekies te wees;

(b) as op een persoon 'n meerderheid van stemme volgens waarde en op 'n ander persoon 'n meerderheid van stemme volgens getal uitgebring is, word albei daardie persone geag as kurators gekies te wees en as een van hulle weier om die kuratorskap met 'n ander te deel, dan word die ander geag as enige kurator gekies te wees.

(4) By die toepassing van hierdie artikel beteken „meerderheid van stemme volgens getal” 'n groter aantal stemme (afgesien van die waarde van die vorderings wat hulle verteenwoordig, dog behoudens die bepalinge van sub-artikel (3) van artikel twee-en-vyftig) as wat op 'n mededinger uitgebring is en beteken „meerderheid van stemme volgens waarde” stemme wat vorderings van 'n groter gesamentlike waarde verteenwoordig as die stemme wat op 'n mededinger uitgebring is.

(5) As op 'n byeenkoms van skuldeisers, belê om 'n kurator te kies, geen kurator gekies word nie en die beheer van die boedel tydens daardie byeenkoms nie by 'n voorlopige kurator berus nie, dan kan die Meester 'n kurator aanstel en as hy nie aldus 'n kurator aanstel nie dan kan die Meester of die insolvent met toestemming van die Meester, op koste van die boedel, die hof by wyse van petisie versoek om die sekwestrasie tot niet te maak en die hof kan daarop so 'n order uitvaardig as wat hy wenslik ag.

55. Elkeen van die volgende persone is onbevoeg om as kurator gekies of aangestel te word: Persone wat onbevoeg is om kurator te wees.

(a) 'n Insolvent;

(b) 'n bloed- of aanverwant van die betrokke insolvent binne die derde graad;

(c) 'n minderjarige of 'n ander persoon wat regtens onbevoeg is;

(d) iemand wat nie in die Unie of die mandaatgebied Suidwes-Afrika woonagtig is nie;

(e) iemand met belange wat indruis teen die algemene belange van die skuldeisers van die insolvente boedel;

(f) 'n gewese kurator wat kragtens artikel twee-en-sewentig onbevoeg is;

(g) iemand wat kragtens artikel negen-en-vyftig onbevoeg verklaar is om as kurator gekies te word, solank daardie onbevoegdheid duur, of iemand wat deur die hof weens wangedrag uit 'n vertrouensamp afgesit is;

(h) 'n regspersoon;

(i) iemand wat te eniger tyd veroordeel is (hetsy in die Unie of elders) om gevangenisstraf sonder die keuse van 'n boete te ondergaan, of tot 'n boete van meer as tien pond, weens diefstal, bedrog, vervalsing of uitgifte van 'n vervalste dokument, of meened;

(j) iemand wat te eniger tyd deelgeneem het aan 'n ooreenkoms of reëling met 'n skuldenaar of skuldeiser waarin hy belowe het om by die verrigting van sy werksaamhede as kurator of boedelredder 'n voordeel waarvoor regtens geen voorsiening gemaak is nie, aan 'n skuldenaar of skuldeiser te verleen of te poog om dit aan hom te verleen, of om dit vir hom te verkry of te poog om dit vir hom te verkry;

- (k) any person who has by means of any misrepresentation or any reward or offer of any reward, whether direct or indirect, induced or attempted to induce any person to vote for him as trustee or to effect or assist in effecting his election as trustee of any insolvent estate.

Appointment of trustee. Security for his administration.

56. (1) If a trustee was elected at a meeting of creditors at which a person other than the Master presided, the election shall not be valid unless it has been confirmed by the Master.

(2) When the Master is satisfied that any person elected as trustee was duly elected and when a person so elected has given security to the satisfaction of the Master for the proper performance of his duties as trustee, the Master shall confirm his election and appoint him as trustee by delivering to him a certificate of appointment, which shall be valid throughout the Union and the Mandated Territory of South-West Africa: Provided that if the Master is of the opinion that a person so elected is not suitable for appointment as trustee to the estate in question he may, in his discretion, decline to confirm the election of that person as trustee or to appoint him as such.

(3) On receipt of his certificate of appointment the trustee shall notify his appointment and address in the *Gazette*.

(4) When two trustees have been appointed or when the Master has appointed a co-trustee in terms of sub-section (5) of section *fifty-seven*, both or all three trustees shall act jointly in performing their functions as trustees and each of them shall be jointly and severally liable for every act performed by them jointly.

(5) Whenever two or three trustees disagree on any matter relating to the estate of which they are trustees one or more of them may refer the matter to the Master who may thereupon determine the question in issue.

(6) Subject to the provisions of sub-section (1) of section *eighty-nine* the cost of giving the security mentioned in sub-section (2), to an amount which the Master considers reasonable, shall be paid out of the estate in question as part of the costs of sequestration.

(7) When a trustee has, in the course of liquidating an insolvent estate accounted to the Master, to his satisfaction, for any property in the estate, the Master may consent to a reduction of the security mentioned in sub-section (2) if he is satisfied that the reduced security will suffice to indemnify the estate or the creditors thereof against any maladministration by the trustee of the remaining property in the estate.

Appointment of trustee or co-trustee by Master.

57. (1) If a person who has been elected as trustee was not properly elected or is disqualified from being a trustee of the estate in question or has failed to give within a period of seven days as from the date upon which he was notified that the Master had confirmed his election, or within such further period as the Master may allow, the security mentioned in sub-section (2) of section *fifty-six*, or if the Master is of the opinion that the person elected is not suitable for appointment as trustee to the estate in question, the Master shall give notice in writing to the person so elected that he declines to confirm his election or to appoint him as trustee and shall, in that notice, state his reason for declining to confirm his election or to appoint him: Provided that if the Master declines to confirm the election of a trustee because he is of the opinion that the person elected is not suitable for appointment as trustee, it shall be sufficient if the Master states, in that notice, as such reason, that he is of the opinion that the person elected is not suitable for appointment as trustee to the estate in question.

(2) When the Master has declined to confirm the election of a trustee or to appoint a person elected as trustee, he shall in accordance with the provisions of sub-sections (1) and (2) of section *forty* convene a meeting of the creditors of the estate in question for the purpose of electing another trustee in the place of the person whose election as trustee the Master declined to confirm or whom the Master declined to appoint. In the notice convening the meeting the Master shall state that he has declined to confirm the election of the person previously elected as trustee, or to appoint a person so elected, and the reasons therefor (but subject to the proviso to sub-section (1)), and that the meeting is convened for the purpose of electing

(k) iemand wat deur middel van wanvoorstelling of beloning of aanbod van beloning, hetsy direk of indirek, iemand beweeg het of gepoog het om iemand te beweeg om vir hom te stem as kurator of om sy verkiesing te bewerkstellig of mee te help tot bewerkstelliging van sy verkiesing as kurator van enige insolvente boedel.

56. (1) As 'n kurator gekies is op 'n byeenkoms van skuldeisers waarop iemand anders as die Meester voorgesit het, dan is die verkiesing nie geldig nie, tensy die Meester dit bekragtig het.

Aanstelling van kurator. Sekuriteit vir sy boedelbereddering.

(2) Wanneer die Meester van oordeel is dat iemand wat as kurator gekies is, regmatig gekies is en wanneer 'n aldus gekosene sekuriteit gestel het wat die Meester voldoende ag, dat hy sy werksaamhede as kurator behoorlik sal verrig, dan bekragtig die Meester sy verkiesing en stel hom as kurator aan deur oorhandiging aan hom van 'n sertifikaat van aanstelling, wat orals in die Unie en die mandaatgebied Suidwes-Afrika regsgeldig is: Met dien verstande dat as die Meester van mening is dat 'n aldus gekosene nie geskik is om as kurator van die betrokke boedel aangestel te word nie, hy volgens goeddunke kan weier om die verkiesing van daardie persoon as kurator te bekragtig of om hom as sodanig aan te stel.

(3) Na ontvangs van sy sertifikaat van aanstelling moet die kurator sy aanstelling en adres in die *Staatskoerant* bekendmaak.

(4) Wanneer twee kurators aangestel is of as die Meester kragtens sub-artikel (5) van artikel *sewen-en-vyftig* 'n mede-kurator aangestel het, moet albei of al drie kurators gesamentlik handel by die verrigting van hulle werksaamhede as kurators, en elkeen van hulle is solidair aanspreeklik vir elke handeling verrig deur hulle gesamentlik.

(5) Wanneer twee of drie kurators van mening verskil omtrent een of ander saak wat betrekking het op die boedel waarvan hulle kurators is, dan kan een of meer van hulle die saak verwys na die Meester wat daarop die geskilpunt kan besleg.

(6) Behoudens die bepalings van sub-artikel (1) van artikel *negen-en-tagtig* word die koste van die sekuriteitstelling bedoel in sub-artikel (2), tot 'n bedrag wat die Meester redelik ag, uit die betrokke boedel betaal as deel van die sekwestrasiekoste.

(7) Wanneer 'n kurator in die loop van die likwidasië van 'n insolvente boedel teenoor die Meester op 'n hom bevredigende wyse verantwoording gedoen het van een of ander goed in die boedel, dan kan die Meester 'n vermindering bewillig van die sekuriteit bedoel in sub-artikel (2), as hy van oordeel is dat die verminderde sekuriteit voldoende sal wees om die boedel of sy skuldeisers te vrywaar teen wanbeheer deur die kurator van die oorblywende goed in die boedel.

57. (1) As iemand wat as kurator gekies is, nie regmatig gekies is nie of onbevoeg is om kurator van die betrokke boedel te wees, of in gebreke gebly het om binne 'n termyn van sewe dae vanaf die dag waarop hy kennis ontvang het dat die Meester sy verkiesing bekragtig het of binne so 'n verdere termyn as wat die Meester mag toestaan, die sekuriteit bedoel in sub-artikel (2) van artikel *ses-en-vyftig* te stel, of as die Meester van mening is dat die gekosene nie geskik is om as kurator van die betrokke boedel aangestel te word nie, dan moet die Meester aan die aldus gekosene skriftelik kennis gee dat hy weier om sy verkiesing te bekragtig of om hom as kurator aan te stel en moet in daardie kennisgewing die rede aangee waarom hy weier om sy verkiesing te bekragtig of om hom aan te stel: Met dien verstande dat as die Meester weier om die verkiesing van 'n kurator te bekragtig omdat hy van mening is dat die gekosene nie geskik is om as kurator aangestel te word nie, dit voldoende is as die Meester in daardie kennisgewing as voormelde rede aangee dat hy van mening is dat die gekosene nie geskik is om as kurator van die betrokke boedel aangestel te word nie.

Aanstelling van kurator of mede-kurator deur Meester.

(2) Wanneer die Meester geweier het om die verkiesing van 'n kurator te bekragtig of om 'n persoon wat as kurator gekies is, aan te stel, moet hy ooreenkomstig die bepalings van sub-artikels (1) en (2) van artikel *veertig* 'n byeenkoms van die skuldeisers van die betrokke boedel belê, teneinde 'n ander kurator te kies in plaas van die persoon wie se verkiesing as kurator die Meester geweier het om te bekragtig of wat die Meester geweier het om aan te stel. In die kennisgewing ter belegging van die byeenkoms moet die Meester aangee dat hy geweier het om die verkiesing van die persoon wat tevore as kurator gekies is, te bekragtig, of om 'n aldus gekosene aan te stel, en die redes daarvoor (maar behoudens die voorbehoud tot sub-artikel (1)), en dat die byeenkoms belê word teneinde 'n ander kurator te kies.

another trustee. The Master shall post a copy of the notice to every creditor whose claim against the estate was previously proved and admitted.

(3) A meeting mentioned in sub-section (2) shall be deemed to be the continuation of a first meeting of creditors held after an adjournment thereof.

(4) If the Master declines, for any reason mentioned in sub-section (1), to confirm the election of a person who was elected as trustee at a meeting mentioned in sub-section (2), or to appoint a person so elected, he shall act in accordance with the provisions of sub-section (1) and thereupon, if the person whose election the Master declined to confirm or whom the Master declined to appoint, was elected as sole trustee, or if two trustees were elected and the Master did not appoint both or one of them, the Master shall appoint as trustee of the estate in question any other person who is not disqualified from being a trustee of that estate.

(5) Whenever the Master considers it desirable, he may appoint a person not disqualified from holding the office of trustee who has given the security mentioned in sub-section (2) of section *fifty-six* as a co-trustee with the trustee or trustees of an insolvent estate.

(6) All the provisions of this Act, relating to a trustee shall apply to a trustee or a co-trustee appointed by the Master under this section.

Vacation of office of trustee.

58. A trustee shall vacate his office—

- (a) if his estate is sequestrated under this Act; or
- (b) if an order is issued under the law relating to mental disorders for his reception and detention in an institution, or if he is declared by a competent court to be incapable of managing his own affairs; or
- (c) if he is convicted of any offence and sentenced to serve any term of imprisonment without the option of a fine, or if he is convicted (whether in the Union or elsewhere) of theft, fraud, forgery or uttering a forged document, or perjury.

Court may declare a person disqualified from being a trustee, or remove a trustee.

59. On the application of any person interested the Court may either before or after the appointment of a trustee, declare that the person appointed or proposed is disqualified from holding the office of trustee, and, if he has been appointed, may remove him from office and may in either case declare him incapable of being elected or appointed trustee under this Act during the period of his life or such other period as it may determine, if—

- (a) he has accepted or expressed his willingness to accept from any person engaged to perform any work on behalf of the estate in question, any benefit whatever in connection with any matter relating to that estate; or
- (b) in order to induce a creditor to vote for him at the election of a trustee or in return for his vote at such election, or in order to exercise any influence upon his election as trustee, he has—
 - (i) wrongfully omitted or included or been privy to the wrongful omission or inclusion of the name of a creditor from any record by this Act required; or
 - (ii) directly or indirectly given or offered or agreed to give to any person any consideration; or
 - (iii) offered to or agreed with any person to abstain from investigating any previous transactions of the insolvent concerned; or
 - (iv) been guilty of or privy to the splitting of claims for the purpose of increasing the number of votes.

Removal of trustee by Court.

60. Upon the application of the Master or of any other person interested the Court may remove a trustee from his office on the ground—

- (a) that he was not qualified for election or appointment as trustee or that his election or appointment was for any other reason illegal, or that he has become disqualified from election or appointment as a trustee; or
- (b) that he has failed to perform satisfactorily any duty imposed upon him by this Act or to comply with a lawful demand of the Master; or
- (c) that he is mentally or physically incapable of performing satisfactorily his duties as trustee.

Die Meester moet aan elke skuldeiser wie se vordering teen die boedel tevore bewys en erken is, 'n afskrif van die kennisgewing oor die pos stuur.

(3) 'n Byeenkoms in sub-artikel (2) bedoel, word geag die voortsetting te wees van 'n eerste byeenkoms van skuldeisers gehou na 'n verdaging daarvan.

(4) As die Meester om enige in sub-artikel (1) bedoelde rede weier om die verkiesing te bekragtig van 'n persoon wat op 'n in sub-artikel (2) bedoelde byeenkoms as kurator gekies is, of om 'n aldus gekosene aan te stel, moet hy handel ooreenkomstig die bepalings van sub-artikel (1) en daarop, as die persoon wie se verkiesing die Meester geweier het om te bekragtig of wat die Meester geweier het om aan te stel, as enige kurator gekies was, of as twee kuratore gekies was, en die Meester nie albei of een van hulle aangestel het nie, dan moet die Meester as kurator van die betrokke boedel iemand anders aanstel wat nie onbevoeg is om kurator van daardie boedel te wees nie.

(5) Wanneer die Meester dit wenslik ag, kan hy iemand wat nie onbevoeg is om die betrekking van kurator te beklee nie en wat die sekuriteit, bedoel in sub-artikel (2) van artikel *ses-en-vyftig*, gestel het, aanstel as mede-kurator van die kurator of kurators van 'n insolvente boedel.

(6) Alle bepalings van hierdie Wet omtrent 'n kurator is van toepassing op 'n kurator of mede-kurator wat die Meester kragtens hierdie artikel aangestel het.

58. 'n Kurator ontruim sy betrekking—

- (a) as sy boedel ingevolge hierdie Wet gesekwestreer word ; of
- (b) as ingevolge die wet op geestesgebreke 'n order uitvaardig word om hom in 'n inrigting op te neem en aan te hou of as 'n bevoegde hof verklaar dat hy onbekwaam is om sy eie sake te beheer ; of
- (c) as hy weens enige misdryf veroordeel word om gevangenisstraf te ondergaan sonder die keuse van 'n boete of as hy veroordeel word (hetsy in die Unie of elders) weens diefstal, bedrog, vervalsing of uitgifte van 'n vervalste dokument, of meineed.

Wanneer kurator sy betrekking ontruim.

59. Op versoek van 'n belanghebbende kan die hof, hetsy voor die aanstelling van 'n kurator, hetsy daarna, verklaar dat die aangestelde of beoogde persoon onbevoeg is om die betrekking van kurator te beklee en as hy aangestel is, kan die hof hom uit sy betrekking afsit en in die een sowel as in die ander geval verklaar dat hy onbekwaam is om kragtens hierdie Wet as kurator gekies of aangestel te word, en wel gedurende sy lewe of gedurende sodanige ander tydperk as wat die hof mag bepaal, indien hy—

Hof kan iemand onbevoeg verklaar om kurator te wees of kurator afsit.

- (a) van iemand, wat aangestel is om enige werk ten behoeve van die betrokke boedel te verrig, enige voordeel hoegenaamd in verband met 'n aangeleentheid wat op daardie boedel betrekking het, aangeneem het of hom bereid verklaar het om dit aan te neem ; of
- (b) ten einde 'n skuldeiser te beweeg, om vir hom te stem by die verkiesing van 'n kurator of as vergoeding vir sy stem by so 'n verkiesing, of om enige invloed uit te oefen op sy verkiesing as kurator—
 - (i) die naam van 'n skuldeiser wederregtelik uitgelaat of ingesluit het van een of ander geskrif wat hierdie Wet voorskryf of by so 'n wederregtelike uitlating of insluiting betrokke was ; of
 - (ii) direk of indirek enige vergoeding aan iemand gegee of aangebied of belowe het ; of
 - (iii) aan iemand aangebied of met iemand ooreengekom het om vorige handelings van die betrokke insolvent nie te ondersoek nie ; of
 - (iv) hom skuldig gemaak het aan of betrokke was by die splitsing van vorderings ten einde die aantal stemme te vermeerder.

60. Op versoek van die Meester of van 'n ander belanghebbende kan die hof 'n kurator afsit om rede—

Afsitting van kurator deur hof.

- (a) dat hy nie bevoeg was om as kurator gekies of aangestel te word nie of dat sy verkiesing of aanstelling om 'n ander rede onwettig was of dat hy onbevoeg geword het om as kurator gekies of aangestel te word ; of
- (b) dat hy versuim het om op 'n bevredigende wyse te voldoen aan 'n verpligting wat hierdie Wet aan hom oplê, of om aan 'n wettige eis van die Meester te voldoen ; of
- (c) dat hy geestelik of liggaamlik onbekwaam is om sy werksaamhede as kurator op bevredigende wyse te verrig.

Leave of absence
or resignation of
trustee.

61. At the request of a trustee the Master may permit him to absent himself from the Union or may relieve him of his office, in either case upon such conditions as the Master may think fit to impose and subject to his giving such notice of his intention to absent himself from the Union or to resign as the Master may direct.

Election of new
trustee.

62. (1) When a Court has removed one of two joint trustees from office, it may order the convening of a meeting of the creditors of the estate in question for the purpose of electing a new trustee in the place of the trustee who was removed.

(2) When a sole trustee has vacated his office or has been removed from office, has resigned or died, the Master shall convene a meeting of the creditors of the estate in question for the purpose of electing a new trustee, and in the meantime the Master may appoint a provisional trustee for the preservation of the estate.

(3) When one of two joint trustees has vacated his office or has been removed from office, has resigned or died the Master may convene a meeting of the creditors of the estate in question for the purpose of electing a new trustee in the place of the trustee who has vacated his office or has been removed from office, has resigned or died, or if the Court has so ordered, in terms of sub-section (1), he shall convene such a meeting.

(4) The provisions of section *fifty-four* shall apply in connection with the election of a new trustee in terms of this section.

Remuneration of
trustee or *curator*
bonis.

63. (1) Every trustee or *curator bonis* shall be entitled to a reasonable remuneration for his services, to be taxed by the Master according to tariff B in the Second Schedule to this Act: Provided that the Master may, for good cause, reduce or increase his remuneration, or may disallow his remuneration either wholly or in part on account of any failure of or delay in the discharge of his duties or on account of any improper performance of his duties.

(2) A person who employs or is a fellow employee or is ordinarily in the employment of the trustee shall not be entitled to any remuneration out of the insolvent estate for services rendered to the estate, and a trustee or his partner shall not be entitled to any remuneration out of the estate for services rendered to the estate, except the remuneration to which under this Act he is entitled as trustee.

Insolvent and
others to attend
meetings of
creditors.

64. (1) An insolvent shall attend the first and second meetings of the creditors of his estate and every adjourned first and second meeting, unless he has previously obtained the written permission of the officer who is to preside or who presides at such meeting granted after consultation with the trustee to absent himself. The insolvent shall also attend any subsequent meeting of creditors if required so to do by written notice of the trustee of his estate.

(2) The officer who is to preside or who presides at any meeting of creditors may summon any person who is known or upon reasonable grounds believed to be or to have been in possession of any property which belonged to the insolvent before the sequestration of his estate or which belongs or belonged to the insolvent estate or to the spouse of the insolvent or to be indebted to the estate, or any person (including the insolvent's spouse) who in the opinion of said officer may be able to give any material information concerning the insolvent or his affairs (whether before or after the sequestration of his estate) or concerning any property belonging to the estate or concerning the business, affairs or property of the insolvent's spouse, to appear at such meeting or adjourned meeting for the purpose of being interrogated under section *sixty-five*.

(3) The said officer may also summon any person who is known or upon reasonable grounds believed to have in his possession or custody or under his control any book or document containing any such information as is mentioned in sub-section (2), to produce that book or document, or an extract therefrom at any such meeting of creditors.

Interrogation of
insolvent and other
witnesses.

65. (1) At any meeting of the creditors of an insolvent estate the officer presiding thereat may call and administer the oath to the insolvent and any other person present at the meeting who was or might have been summoned in terms of sub-section (2) of section *sixty-four* and the said officer, the trustee and any creditor who has proved a claim against the estate or the agent of any of them may interrogate a person so called and sworn concerning all matters relating to the insolvent or his business or affairs, whether before or after

61. Op versoek van 'n kurator kan die Meester hom veroorloof om uit die Unie te vertrek of hom uit sy betrekking ontslaan, en wel in beide gevalle op die voorwaardes wat die Meester mag wenslik ag om te stel en mits hy sodanige kennis gee van sy voorneme om uit die Unie te vertrek of om te bedank, as wat die Meester mag voorskrywe.

Afwesigheid met verlof of bedanking van kurator.

62. (1) Wanneer die hof een van twee medekurators uit sy betrekking afgesit het, kan hy die belegging gelas van 'n byeenkoms van die skuldeisers van die betrokke boedel om 'n nuwe kurator te kies in die plek van die kurator wat afgesit is.

Verkiesing van nuwe kurator.

(2) Wanneer 'n enigste kurator sy betrekking ontruim of bedank het of afgesit of oorlede is, dan moet die Meester 'n byeenkoms van die skuldeisers van die betrokke boedel belê om 'n nuwe kurator te kies en in die tussentyd kan die Meester 'n voorlopige kurator tot behoud van die boedel aanstel.

(3) Wanneer een van twee medekurators sy betrekking ontruim of bedank het of afgesit of oorlede is, dan kan die Meester 'n byeenkoms van die skuldeisers van die betrokke boedel belê om 'n nuwe kurator te kies in die plek van die kurator wat sy betrekking ontruim of bedank het of afgesit of oorlede is, of as die hof dit volgens sub-artikel (1) gelas het moet hy so 'n byeenkoms belê.

(4) Die bepalinge van artikel vier-en-vyftig is van toepassing in verband met die verkiesing van 'n kurator volgens hierdie artikel.

63. (1) Elke kurator of *curator bonis* is geregtig op 'n redelike vergoeding vir sy dienste, wat die Meester volgens tarief B in die Tweede Bylae tot hierdie Wet moet takseer: Met dien verstande dat die Meester om gegronde redes sy vergoeding kan vergroot of verminder of hom sy vergoeding geheel of gedeeltelik kan ontsê weens versuim of vertraging van die verrigting van sy werksaamhede of weens onbehoorlike verrigting van sy werksaamhede.

Vergoeding van kurator of *curator bonis*.

(2) Iemand wat die kurator in sy diens het of wat 'n medewerknemer van die kurator is of wat gewoonlik in die diens van die kurator is, is nie geregtig op vergoeding uit die insolvente boedel weens dienste aan die boedel verrig nie en 'n kurator of sy vennoot is nie geregtig op vergoeding uit die boedel weens dienste aan die boedel verrig nie buiten die vergoeding waarop hy kragtens hierdie Wet as kurator geregtig is.

64. (1) 'n Insolvent moet die eerste en tweede byeenkomste van sy skuldeisers en elke verdaagde eerste en tweede byeenkoms bywoon, tensy hy van die amptenaar wat op daardie byeenkoms sal voorsit of voorsit vooraf skriftelik verlof ontvang het, verleen na beraadslaging met die kurator, om weg te gaan of weg te bly. Die insolvent moet ook elke volgende byeenkoms van skuldeisers bywoon as die kurator van sy boedel hom skriftelik kennis gegee het om so 'n byeenkoms by te woon.

Insolvent en ander persone moet byeenkomste van skuldeisers bywoon.

(2) Die amptenaar wat op 'n byeenkoms van skuldeisers sal voorsit of voorsit, kan iemand van wie bekend is of om gegronde redes vermoed word dat hy in besit is of was van goed wat aan die insolvent behoort het voor die sekwestrasie van sy boedel of wat aan die insolvente boedel of aan die eggenote of eggenoot van die insolvent behoort of behoort het, of dat hy aan die boedel iets skuld, of enigeen (met inbegrip van die insolvent se eggenote of eggenoot) wat volgens bedoelde amptenaar se oordeel in staat mag wees om inligtings van belang te verstrek omtrent die insolvent of sy sake (hetsy voor of na die sekwestrasie van sy boedel) of omtrent goed wat tot die boedel behoort of omtrent die besigheid, sake of goed van die eggenote of eggenoot van die insolvent, dagvaar om op daardie byeenkoms of op 'n verdaagde byeenkoms te verskyn, ten einde kragtens artikel vyf-en-sestig ondervra te word.

(3) Bedoelde amptenaar kan ook iemand, van wie bekend is of om gegronde redes vermoed word dat hy in besit of bewaring is van, of seggenskap het oor 'n boek of geskrif wat inligtings, soas bedoel in sub-artikel (2), bevat, dagvaar om daardie boek of stuk of 'n uittreksel daarvan op so 'n byeenkoms van skuldeisers oor te lê.

65. (1) Op 'n byeenkoms van die skuldeisers van 'n insolvente boedel kan die amptenaar wat daarop voorsit die insolvent en enige ander op die byeenkoms aanwesige persoon wat kragtens sub-artikel (2) van artikel vier-en-sestig gedagvaar is of kon gedagvaar geword het, oproep en aan hom die eed oplê en bedoelde amptenaar, die kurator en elke skuldeiser wat 'n vordering teen die boedel bewys het of die verteenwoordiger van een van hulle, kan 'n aldus opgeroepe en bededige persoon ondervra omtrent alle aangeleenthede wat

Ondervraging van insolvent en ander getuies.

the sequestration of his estate, and concerning any property belonging to his estate, and concerning the business, affairs or property of his or her spouse: Provided that the presiding officer shall disallow any question which is irrelevant and may disallow any question which would prolong the interrogation unnecessarily.

(2) In connection with the production of any book or document in compliance with a summons issued under sub-section (3) of section *sixty-four* or at an interrogation of a person under sub-section (1) of this section, the law relating to privilege as applicable to a witness summoned to produce a book or document or giving evidence in a court of law, shall apply: Provided that a banker at whose bank the insolvent in question or his or her spouse keeps or at any time kept an account, shall be obliged to produce, if summoned to do so under sub-section (3) of section *sixty-four*, any cheque in his possession which was drawn by the insolvent or his or her spouse within one year before the sequestration of the insolvent's estate, or if any cheque so drawn is not available, then any record of the payment, date of payment and amount of that cheque which may be available to him, or a copy of such a record and if called upon to do so, to give any other information available to him in connection with such cheque or the account of the insolvent or his or her spouse; and provided further that a person interrogated under sub-section (1) shall not be entitled at such interrogation to refuse to answer any question upon the ground that the answer would tend to incriminate him.

(3) The presiding officer shall reduce to writing or cause to be reduced to writing the statement of any person giving evidence under this section: Provided that if a person who may be required to give evidence under this section made to the trustee or his agent a statement which was reduced to writing, or delivered a statement in writing to the trustee or his agent, that statement may be read by or read over to that person when he is called as a witness under this section and if then adhered to by him, shall be deemed to be evidence given under this section.

(4) The insolvent shall at such interrogation be required to make a declaration that he has made a full and true disclosure of all his affairs.

(5) Any evidence given under this section shall be admissible in any proceedings instituted against the person who gave that evidence.

(6) Any person called upon to give evidence under this section may be assisted at his interrogation by counsel, an attorney or agent.

(7) Any person summoned to attend a meeting of creditors for the purpose of being interrogated under this section (other than the insolvent and his or her spouse) shall be entitled to witness fees to be paid out of the estate, to which he would be entitled if he were a witness in any civil proceedings in a Court of law.

(8) If the insolvent or his or her spouse is called upon to attend any meeting of creditors held after the second meeting or an adjourned second meeting, he or she shall be entitled to an allowance out of the insolvent estate to defray his or her necessary expenses in connection with such attendance.

Enforcing summonses and giving of evidence.

66. (1) If a person summoned under section *sixty-four* fails to appear at a meeting of creditors, in answer to the summons, or fails to remain in attendance at that meeting the officer presiding at such meeting may issue a warrant, authorizing any member of the police force to apprehend the person summoned and to bring him before the said officer.

(2) Unless the person summoned satisfies the said officer that he had a reasonable excuse for his failure to answer the summons, or for absenting himself from the meeting, the said officer may commit him to prison to be detained there until such time as the said officer may appoint, and the officer in charge of the prison or gaol to which the said person was committed, shall detain him and produce him at the time and place appointed by the first-mentioned officer for his production.

betrekking het op die insolvent of sy besigheid of sake, hetsy voor of na die sekwestrasie van sy boedel en omtrent alle goed wat tot sy boedel behoort en omtrent die besigheid, sake of goed van sy eggenote of haar eggenoot: Met dien verstande dat die voorsittende amptenaar 'n vraag moet belet, wat onrelevant is en 'n vraag kan belet wat die ondervraging onnodig sou verleng.

(2) In verband met oorlegging van 'n boek of geskrif volgens voorskrif van 'n dagvaarding uitgevaardig kragtens sub-artikel (3) van artikel *vier-en-sestig* of by ondervraging van iemand kragtens sub-artikel (1) van hierdie artikel, is die regsreëls betreffende privilegie, soas toepaslik op 'n getuie wat gedagvaar is om 'n boek of geskrif oor te lê of om getuienis af te lê in 'n geregshof van toepassing: Met dien verstande dat 'n bankier op wie se bank die betrokke insolvent of sy eggenote of haar eggenoot 'n rekening aanhou of te eniger tyd aangehou het verplig is om, indien hy kragtens sub-artikel (3) van artikel *vier-en-sestig* daartoe gedagvaar word, oor te lê enige tjeek wat in sy besit is en wat die insolvent of sy eggenote of haar eggenoot getrek het binne een jaar voor die sekwestrasie van die insolvent se boedel, of as 'n aldus getrokke tjeek nie beskikbaar is nie, dan enige aantekening van die betaling, datum van betaling en bedrag van daardie tjeek, waaroor hy beskik, of 'n afskrif van so 'n aantekening, en om, indien daartoe opgevorder, alle ander inligting waaroor hy beskik, in verband met so 'n tjeek of die rekening van die insolvent of sy eggenote of haar eggenoot, te verstrek; en met dien verstande voorts dat 'n kragtens sub-artikel (1) ondervraagde persoon nie geregtig is om by die ondervraging te weier om 'n vraag te beantwoord nie om rede dat die antwoord hom sou kan inkrimineer.

(3) Die voorsittende amptenaar moet die verklaring van iemand wat ingevolge hierdie artikel getuienis aflê, opteken of laat opteken: Met dien verstande dat, as iemand wat kragtens hierdie artikel sou verplig kon word om getuienis af te lê, teenoor die kurator of sy verteenwoordiger 'n verklaring afgelê het wat op skrif gestel is of 'n skriftelike verklaring aan die kurator of sy verteenwoordiger oorhandig het, dit oorgelees kan word deur of voorgelees kan word aan bedoelde persoon wanneer hy kragtens hierdie artikel as getuie opgeroep word, en dat as hy dit dan bevestig, dit aangemerkt word as getuienis wat ingevolge hierdie artikel afgelê is.

(4) By so 'n ondervraging moet van die insolvent verlang word dat hy 'n verklaring aflê dat hy al sy sake volledig en na waarheid bekend gemaak het.

(5) Alle getuienis ingevolge hierdie artikel afgelê kan in enige geding teen die persoon wat die getuienis afgelê het, aangevoer word.

(6) Iemand wat kragtens hierdie artikel opgeroep word om getuienis af te lê, kan by sy ondervraging bygestaan word deur 'n advokaat, prokureur of wetsagent.

(7) Iemand wat gedagvaar is tot bywoning van 'n byeenkoms van skuldeisers om kragtens hierdie artikel ondervra te word (behalwe die insolvent en sy eggenote of haar eggenoot) is geregtig op die getuieloon (wat uit die boedel betaal moet word) waarop hy geregtig sou wees as hy 'n getuie was in 'n siviele geding in 'n geregshof.

(8) As die insolvent of sy eggenote of haar eggenoot opgeroep word om 'n byeenkoms van skuldeisers na die tweede byeenkoms of 'n verdaagde tweede byeenkoms by te woon, dan is hy of sy geregtig op 'n toelae uit die insolvente boedel tot dekking van sy of haar nodige onkoste in verband met daardie bywoning.

66. (1) As 'n kragtens artikel *vier-en-sestig* gedagvaarde persoon in gebreke bly om op 'n byeenkoms van skuldeisers volgens voorskrif van die dagvaarding te verskyn of in gebreke bly om op daardie byeenkoms aanwesig te bly, dan kan die amptenaar wat op daardie byeenkoms voorsit, 'n lasbrief uitvaardig wat elke lid van die polisiemag magtig om die gedagvaarde in hegtenis te neem en hom voor bedoelde amptenaar te bring.

(2) Tensy die gedagvaarde persoon bedoelde amptenaar oortuig dat hy 'n redelike verontskuldiging had vir sy versuim om aan die dagvaarding gevolg te gee of om die byeenkoms te verlaat, kan bedoelde amptenaar hom verwys na die gevangenis om daar aangehou te word tot op 'n tydstop wat bedoelde amptenaar mag bepaal en die amptenaar aan die hoof van die gevangenis of tronk waarna bedoelde persoon verwys is, moet hom aanhou en uitlewer op die tyd en plek wat eersbedoelde amptenaar vir sy uitlewering bepaal het.

Dwanguitoefening tot gehoorsaming van dagvaardings- en aflegging van getuienis.

(3) If a person summoned as aforesaid, appears in answer to the summons but fails to produce any book or document which he was summoned to produce, or if any person who may be interrogated at a meeting of creditors in terms of sub-section (1) of section *sixty-five* refuses to be sworn by the officer presiding at a meeting of creditors at which he is called upon to give evidence or refuses to answer any question lawfully put to him under the said section or does not answer the question fully and satisfactorily, the officer may issue a warrant committing the said person to prison, where he shall be detained until he has undertaken to do what is required of him, but subject to the provisions of sub-section (5).

(4) If a person who has been released from prison after having undertaken in terms of sub-section (3) to do what is required of him, fails to fulfil his undertaking, the said officer may commit him to prison as often as may be necessary to compel him to do what is required of him.

(5) Any person committed to prison under this section may apply to the Court for his discharge from custody and the Court may order his discharge if it finds that he was wrongfully committed to prison or is being wrongfully detained.

(6) In connection with the apprehension of a person or with the committal of a person to prison under this section, the officer who issued the warrant of apprehension or committal to prison shall enjoy the same immunity which is enjoyed by a judicial officer in connection with any act performed by him in the exercise of his functions.

Steps to be taken on suspicion of an offence.

67. (1) If it appears from any statement made at an interrogation under section *sixty-five* that there are reasonable grounds for suspecting that any person has committed any offence the Master shall transmit the said statement, or a certified copy thereof, and all necessary documents to the Attorney-General of the Province wherein the interrogation was held or the offence is suspected to have been committed, or, if the interrogation was held or offence is suspected to have been committed within the jurisdiction of the Eastern Districts of the Cape of Good Hope Local Division of the Supreme Court, to the Solicitor-General of the Eastern Districts of the Cape of Good Hope, to enable that Attorney-General or the Solicitor-General to determine whether any criminal proceedings shall be instituted in the matter.

(2) When any such statement has been made at a meeting at which an officer other than the Master presided, the presiding officer, when transmitting the record of the proceedings to the Master, in terms of sub-section (3) of section *thirty-nine*, shall direct the attention of the Master to what appears to him to be reasonable grounds for suspecting that the insolvent has been guilty of a contravention of this Act.

(3) For the purposes of this section and sections *sixty-four* and *sixty-five*, a person who was, before the sequestration of an estate, an executor, curator or administrator of that estate, shall after the sequestration of that estate, be deemed to be an insolvent in relation to that estate.

Presumption as to record of proceedings and validity of acts at meetings of creditors.

68. (1) Any record purporting to be a record of any proceedings at a meeting of the creditors of an insolvent estate held under this Act and purporting to have been signed by a person describing himself as Master, magistrate or other presiding officer shall, upon its mere production by any person, be received as *prima facie* evidence of the proceedings recorded therein.

(2) Unless the contrary is proved, it shall be presumed that any meeting, of the proceedings whereat there was kept and signed such a record as is mentioned in sub-section (1), was duly convened and held and that all acts performed thereat were validly performed.

Trustee must take charge of property of estate.

69. (1) Immediately after his appointment a trustee shall take into his possession or under his control all movable property, books and documents belonging to the estate of which he is trustee.

(2) If the trustee has reason to believe that any such property, book or document is concealed or otherwise unlawfully withheld from him, he may apply to the magistrate having jurisdiction for a search warrant mentioned in sub-section (3).

(3) If it appears to a magistrate to whom such application is made, from a statement made upon oath, that there are

(3) As 'n soas voormeld gedagvaarde persoon volgens voorskryf van die dagvaarding verskyn dog in gebreke bly om 'n boek of stuk oor te lê tot oorlegging waarvan hy gedagvaar is, of as iemand wat kragtens sub-artikel (1) van artikel *vyf-en-sestig* op 'n byeenkoms van skuldeisers ondervra kan word, weier om ingesweer te word deur die amptenaar wat voorsit op 'n byeenkoms van skuldeisers waarop hy opgeroep word om getuienis af te lê of weier om te antwoord op 'n vraag wat aan hom kragtens voormelde artikel wettig gestel is of die vraag nie volledig en bevredigend beantwoord nie, dan kan die amptenaar 'n lasbrief uitvaardig wat bedoelde persoon verwys na die gevangenis waar hy aangehou word totdat hy belowe het om te doen wat van hom verlang word, dog behoudens die bepalinge van sub-artikel (5).

(4) As iemand wat uit die gevangenis ontslaan is nadat hy volgens sub-artikel (3) belowe het om te doen wat van hom verlang word, in gebreke bly om sy belofte gestand te doen, dan kan bedoelde amptenaar hom na die gevangenis verwys so dikwels as wat nodig mag wees om hom te dwing om te doen wat van hom verlang word.

(5) Iemand wat kragtens hierdie artikel na die gevangenis verwys is kan die hof om sy ontslag uit hegtenis versoek en die hof kan sy ontslag gelas as dit bevind dat hy onregmatig na die gevangenis verwys is of onregmatig aangehou word.

(6) In verband met die gevangeneming van iemand of met die verwysing van iemand na die gevangenis, kragtens hierdie artikel, kom aan die amptenaar wat die lasbrief tot gevangeneming of tot verwysing na die gevangenis uitgevaardig het, dieselfde vrydom van aanspreeklikheid toe as wat toekom aan 'n regterlike amptenaar in verband met 'n handeling wat hy ampshalwe verrig het.

67. (1) As uit 'n verklaring, afgelê by 'n ondervraging kragtens artikel *vyf-en-sestig*, blyk dat daar gegronde redes bestaan om te vermoed dat enige persoon 'n misdryf begaan het, dan moet die Meester bedoelde verklaring of 'n gesertifiseerde afskrif daarvan en alle nodige stukke instuur aan die Prokureur-generaal van die provinsie waarin die ondervraging plaasgevind het of die misdryf vermoed word begaan te wees of as die ondervraging plaasgevind het of die misdryf vermoed word begaan te wees in die regsgebied van die Plaaslike Afdeling van die Hooggeregshof vir die Oostelike Distrikte van die Kaap die Goeie Hoop, aan die Solisiteur-generaal van die Oostelike Distrikte van die Kaap die Goeie Hoop, om daardie Prokureur-generaal of die Solisiteur-generaal in staat te stel om te beslis of 'n strafgeding in die saak ingestel moet word.

Wat gedaan moet word as 'n misdryf vermoed word.

(2) Wanneer so 'n verklaring afgelê is op 'n byeenkoms waarop 'n ander amptenaar as die Meester voorgesit het, dan moet die voorsittende amptenaar, wanneer hy die notule van die byeenkoms aan die Meester instuur volgens sub-artikel (3) van artikel *negen-en-dertig*, die Meester se aandag vestig op wat aan hom voorkom as gegronde redes om die insolvent te verdink van 'n oortreding van hierdie Wet.

(3) By die toepassing van hierdie artikel en van artikels *vier-en-sestig* en *vyf-en-sestig* word iemand wat voor die sekwestrasie van 'n boedel 'n eksekuteur, kurator of beheerder van daardie boedel was, na die sekwestrasie van daardie boedel geag 'n insolvent te wees met betrekking tot daardie boedel.

68. (1) 'n Verslag wat voorgee die notule te wees van die verrigtings op 'n byeenkoms van die skuldeisers van 'n insolvente boedel, ingevolge hierdie Wet gehou en wat voorgee onderteken te wees deur iemand wat homself as Meester, magistraat of ander voorsittende amptenaar noem, strek, by blote oorlegging deur wie ook al, tot bewys, *prima facie*, van die daarin opgetekende verrigtings.

Regsvermoede omtrent notule en geldigheid van handelings op byeenkomste van skuldeisers.

(2) Elke byeenkoms van die verrigtings waarvan sulke notule as bedoel in sub-artikel (1) gehou en onderteken is, word geag behoorlik belê en gehou te geword het en alle daarop verrigte handelings word geag regsgeldig verrig te geword het, tensy die teendeel bewys word.

69. (1) 'n Kurator moet onmiddellik na sy aanstelling alle roerende goedere, boeke en geskryfte wat behoort tot die boedel waarvan hy kurator is, in sy besit of onder sy beheer neem.

Kurator moet goed van boedel onder sy beheer neem.

(2) As die kurator rede het om te vermoed dat sodanige goed, of 'n boek of geskrif verberg of andersins onwettig van hom weerhou word, dan kan hy by die bevoegde magistraat aansoek doen om 'n lasbrief tot deursoeking bedoel in sub-artikel (3).

(3) As aan 'n magistraat by wie so 'n aansoek gedaan word, blyk op grond van 'n beëdigde verklaring dat daar gegronde

reasonable grounds for suspecting that any property, book or document belonging to an insolvent estate is concealed upon any person, or at any place or upon or in any vehicle or vessel or receptacle of whatever nature, or is otherwise unlawfully withheld from the trustee concerned, within the area of the magistrate's jurisdiction, he may issue a warrant to search for and take possession of that property, book or document.

(4) Such a warrant shall be executed in a like manner as a warrant to search for stolen property, and the person executing the warrant shall deliver any article seized thereunder to the trustee.

Opening of banking account.

70. (1) The trustee of an insolvent estate shall open an account in the name of the estate with a bank within the Union, and shall deposit therein to the credit of the estate from time to time all sums received by him on behalf of the estate. All cheques or orders drawn upon that account shall contain the name of the payee and the cause of payment and shall be drawn to order and be signed by every trustee of the estate or by his agent.

(2) Within fourteen days after his appointment the trustee shall give to the Master notice in writing of the bank and branch thereof with which the said account has been or will be opened, and he shall not, without the written permission of the Master, transfer that account from that branch.

(3) The Master and any surety for the trustee, or any person authorized by such surety, shall have the same right to information in regard to that account as the trustee himself possesses, and may examine all vouchers in relation thereto, whether in the hands of the bank or of the trustee.

(4) The Master may, after notice to the trustee, direct the manager of the said branch of the bank in writing to pay over into the Guardians' Fund all moneys standing to the credit of that account at the time of the receipt, by the said manager, of that direction, and all moneys which may thereafter be paid into that account, and the said manager shall carry out that direction.

Record of all receipts.

71. (1) Immediately after his appointment the trustee of an insolvent estate shall open a book wherein he shall enter as soon as possible a statement of all moneys, goods, books, accounts and other documents received by him on behalf of the estate.

(2) The Master may at any time direct the trustee in writing to produce the said book for inspection and every creditor who has proved his claim against the estate, and, if the Master so orders, every person claiming to be a creditor or a surety of the trustee may inspect the said book at all reasonable times.

Unlawful retention of moneys or use of property by trustee.

72. (1) A trustee who, without lawful cause, retains any money exceeding twenty pounds belonging to the estate of which he is trustee, or knowingly permits his co-trustee to retain such a sum of money longer than the earliest day after its receipt on which it was possible for him or his co-trustee to pay that money into a bank, or who uses or knowingly permits his co-trustee to use any property of the estate except for the benefit of the estate, shall, in addition to any other penalty to which he may be liable, be liable to pay into the estate an amount equal to double the amount so retained or double the value of the property so used.

(2) The amount which a trustee is so liable to pay may be deducted from any claim which the said trustee may have against the estate in question or may be recovered from him by action in a court of law at the instance of his co-trustee, the Master or any creditor of the estate who has proved his claim.

(3) A person whose estate is sequestrated while he is, in terms of sub-section (1) indebted to an estate of which he was trustee for any sum of money which he misappropriated from that estate, shall be for ever incapable of holding the office of trustee, provisional trustee, liquidator, curator dative, tutor dative, *curator bonis*, or executor dative.

Trustee may obtain legal advice.

73. (1) A trustee may obtain legal advice on any question of law affecting the administration or distribution of the estate of which he is trustee and may employ an attorney or an attorney and counsel for the institution or defence of legal proceedings on behalf of or against the estate, and all costs incurred by the trustee under this section as well as costs awarded against the estate in those legal proceedings, in so far as they result from any action taken by the trustee under this sub-section, shall be included in the cost of the sequestration of the estate: Provided that, subject to the provisions of sub-section (4) of section *fifty-three*, the trustee shall not institute or defend any legal proceedings on behalf of the estate, unless he has been authorized thereto by the creditors or by the Master.

rede bestaan om te vermoed dat goed, of 'n boek of geskrif wat tot 'n insolvente boedel behoort, op 'n persoon, plek, voertuig of vaartuig of in 'n houer van watter aard ook al verberg is of andersins onwettig aan die betrokke kurator weerhou word binne die magistraat se regsgebied, dan kan hy 'n lasbrief uitvaardig om daardie goed, boek of stuk te soek en in besit te neem.

(4) So 'n lasbrief moet op dieselfde wyse tenuitvoer gelê word as 'n lasbrief om gesteelde goed te soek, en die persoon wat die lasbrief ten uitvoer lê moet elke voorwerp wat hy uit kragte daarvan in besit neem, aan die kurator oorhandig.

70. (1) Die kurator van 'n insolvente boedel moet in 'n bank in die Unie 'n rekening op naam van die boedel aanlê en moet daarin op krediet van die boedel van tyd tot tyd alle somme geld stort, wat hy ten behoeve van die boedel ontvang. Alle tjeks of orders wat op daardie rekening getrek word, moet die naam van die nemer, en die grond van betaling bevat, moet op order uitgemaak en deur elke kurator van die boedel of deur sy verteenwoordiger onderteken word.

Aanlê van bankrekening.

(2) 'n Kurator moet binne veertien dae na sy aanstelling aan die Meester skriftelik kennis gee van die bank en banktak waarin bedoelde rekening aangelê is of sal word en hy mag nie sonder skriftelike toestemming van die Meester daardie rekening van daardie tak verplaas nie.

(3) Die Meester en 'n borg vir die kurator of so 'n borg se gemagtigde het dieselfde reg op inligtings met betrekking tot daardie rekening as die kurator self, en is geregtig op insage van alle daarop betreklike bewysstukke, onverskillig of hulle in hande van die bank of van die kurator is.

(4) Die Meester kan, na kennisgewing aan die kurator, die bestuurder van bedoelde banktak skriftelik gelas om alle gelde waarmee daardie rekening gekrediteer staan op die tydstip wanneer bedoelde bestuurder daardie opdrag ontvang en alle gelde wat daarna op daardie rekening inbetaal mag word, in die voogdyfonds te stort en bedoelde bestuurder moet aan daardie opdrag gevolg gee.

71. (1) Die kurator van 'n insolvente boedel moet onmiddellik na sy aanstelling 'n boek aanlê waarin hy so spoedig moontlik aantekening moet maak van alle gelde, goedere, boeke, rekenings en ander stukke wat hy ten behoeve van die boedel ontvang het.

Aantekening van alle ontvangste.

(2) Die Meester kan te eniger tyd die kurator skriftelik gelas om bedoelde boek ter insage oor te lê en elke skuldeiser wat sy vordering teen die boedel bewys het en as die Meester dit gelas, elkeen wat beweer 'n skuldeiser of 'n borg vir die kurator te wees, kan bedoelde boek op alle redelike tye insien.

72. (1) 'n Kurator wat sonder wettige rede geld, tot 'n bedrag van meer as twintig pond, wat behoort tot die boedel waarvan hy kurator is, behou of wetens sy medekurator toelaat om so 'n som geld te behou langer as die eerste dag na die ontvangs daarvan waarop hy of sy medekurator by magte was om daardie geld in die bank te stort, of wat goed van die boedel gebruik of wetens toelaat dat sy medekurator dit gebruik vir 'n ander doel as ten bate van die boedel, is, buiten en behalwe enige ander straf waaraan hy mag blootstaan, aanspreeklik tot betaling aan die boedel van 'n bedrag wat tweemaal so groot is as die aldus behoue bedrag of tweemaal so groot is as die waarde van die aldus gebruikte goed.

Onregmatige terughouding van geld of gebruik van goed deur kurator.

(2) Die bedrag waarvoor 'n kurator aldus aanspreeklik is, kan afgetrek word van een of ander vordering wat bedoelde kurator teen die betrokke boedel mag hê of kan van hom in regte ingevorder word deur sy medekurator, die Meester of 'n skuldeiser van die boedel wat sy vordering bewys het.

(3) Iemand wie se boedel gesekwestreer word terwyl hy volgens sub-artikel (1) aan 'n boedel waarvan hy kurator was, 'n som geld skuld wat hy van daardie boedel verduister het, is vir altyd onbekwaam om die betrekking te beklee van kurator, voorlopige kurator, likwidateur, kurator datief, datiewe voog, *curator bonis* of eksekuteur datief.

73. (1) 'n Kurator kan regsadvies inwin omtrent enige regsvraag betreffende die beredding of verdeling van die boedel waarvan hy kurator is en kan 'n prokureur of 'n prokureur en 'n advokaat aanstel om namens die boedel as eiser of verweerder in regte op te tree en alle koste kragtens hierdie artikel deur 'n kurator gemaak benewens die koste waarin die boedel in so 'n regsgeding verwys mag word, vir sover as wat hulle die gevolg is van stappe deur die kurator ingevolge hierdie artikel gedaan, word ingesluit in die koste van die sekwestrasie van die boedel: Met dien verstande dat, behoudens die bepalings van sub-artikel (4) van artikel drie-en-vyftig, die kurator nie namens die boedel as eiser of verweerder in regte mag optree nie tensy die skuldeisers of die Meester hom daartoe gemagtig het.

Kurator kan regsadvies inwin.

(2) All costs incurred under this section which are not the subject of taxation by the taxing officer of the Court, shall be taxed by the Master according to a tariff framed by him.

Improper advising or conduct of legal proceedings.

74. If it appears to the Court that any attorney or counsel has, with intent to benefit himself, improperly advised the institution, defence or conducting of legal proceedings by or against an insolvent estate or has incurred any unnecessary expense therein, the Court may order the whole or part of the expense thereby incurred to be borne by that attorney or counsel personally.

Legal proceedings against estate.

75. (1) Any civil legal proceedings instituted against a debtor before the sequestration of his estate shall lapse upon the expiration of a period of three weeks as from the date of the first meeting of the creditors of that estate, unless the person who instituted those proceedings gave notice, within that period, to the trustee of that estate, or if no trustee has been appointed, to the Master, that he intends to continue those proceedings, and after the expiration of a period of three weeks as from the date of such notice, prosecutes those proceedings with reasonable expedition: Provided that the Court in which the proceedings are pending may permit the said person (on such conditions as it may think fit to impose) to continue those proceedings even though he failed to give such notice within the said period, if it finds that there was a reasonable excuse for such failure.

(2) After the confirmation, by the Master, of any trustee's account in an insolvent estate in terms of section *one hundred and twelve*, no person shall institute any legal proceedings against that estate in respect of any liability which arose before its sequestration: Provided that the Court in which it is sought to institute proceedings may, on such conditions as it may think fit to impose, but subject to the provisions of the said section, permit the institution of such proceedings after the said confirmation, if it finds that there was a reasonable excuse for the delay in instituting such proceedings.

Continuance of pending legal proceedings by surviving or new trustee.

76. (1) Whenever a trustee of an insolvent estate has vacated his office or has been removed from office or has resigned or died, no legal proceedings previously instituted, in which the said estate is involved, shall lapse merely by reason of the vacating, removal, resignation or death.

(2) The Court in which any such proceedings are pending may, upon receiving notice of the vacating, removal, resignation or death, allow the name of the surviving or new trustee to be substituted for the name of the former, and the proceedings shall thereupon continue as if the surviving or new trustee had originally represented the estate in those proceedings.

Recovery of debts due to estate.

77. A trustee shall, in the notification of his appointment in the *Gazette*, in terms of sub-section (3) of section *fifty-six*, call upon all persons indebted to the estate of which he is trustee to pay their debts within a period and at a place mentioned in that notice, and if any such person fails to do so, the trustee shall forthwith recover payment from him, if need be by legal proceedings.

Extension of time for payment or compounding of debts due to estate, and arbitration.

78. (1) The trustee may accept from a debtor of the insolvent estate who is unable to pay his debt in full, any reasonable part of the debt in discharge of the whole debt or grant any debtor of the estate an extension of time for the payment of his debt in so far as this is compatible with the provisions of section *ninety-one*: Provided that if the debt exceeds fifty pounds, the trustee shall not accept a part of the debt in discharge of the whole debt, unless he has been authorized thereto by the creditors of the estate, or if no creditor has proved a claim against the estate, by the Master.

(2) If authorized thereto by the creditors, or if no creditor has proved a claim against the estate, by the Master, the trustee may submit to the determination of arbitrators any dispute concerning the estate or any claim or demand upon the estate, when the opposite party consents to arbitration.

(3) If authorized thereto by the creditors or if no creditor has proved a claim against the estate, by the Master, the trustee may compromise or admit any claim against the estate, whether liquidated or unliquidated if proof thereof was tendered at a meeting of creditors, but the claim was wholly or partly rejected. When a claim has been so

(2) Alle koste ingevolge hierdie artikel gemaak, wat nie onder die taksasie van die taksasie-amptenaar van die hof val nie, word getakseer deur die Meester, volgens 'n tarief deur hom vasgestel.

74. As aan die hof blyk dat 'n prokureur of advokaat met die doel om homself te bevoordeel op onbehoorlike wyse die instelling, verdediging of leiding van 'n geding deur of teen 'n insolvente boedel aangeraai het of onnodige onkoste in verband daarmee gemaak het, dan kan die hof daardie prokureur of advokaat persoonlik verwys in die koste of 'n deel daarvan, wat daardeur veroorsaak is.

Onbehoorlike
aanbeveling of
leiding van
regsgeding.

75. (1) 'n Siviele regsgeding wat teen 'n skuldenaar ingestel is voor die sekwestrasie van sy boedel, verval na verstryking van 'n termyn van drie weke vanaf die dag van die eerste byeenkoms van die skuldeisers van daardie boedel, tensy die persoon wat daardie regsgeding ingestel het, binne daardie termyn aan die kurator van daardie boedel, of as geen kurator aangestel is nie, aan die Meester kennis gegee het dat hy voornemens is om daardie regsgeding voort te sit, en na verstryking van 'n termyn van drie weke vanaf die dag waarop hy kennis gegee het, daardie regsgeding met redelike spoed voortset: Met dien verstande dat die hof waarin die regsgeding ahangig is, bedoelde persoon kan veroorloof (en wel op die voorwaardes wat daardie hof mog wenslik ag om te stel) om daardie regsgeding voort te sit, alhoewel hy nie binne bedoelde termyn aldus kennis gegee het nie, as die hof bevind dat daar 'n redelike verontskuldiging vir die versuim was.

Regsgeding
teen boedel.

(2) Na bekragtiging, deur die Meester, van 'n kuratorsrekening in 'n insolvente boedel volgens artikel *honderd-entwaalf*, mag niemand 'n regsgeding teen daardie boedel instel nie weens 'n aanspreeklikheid wat voor sy sekwestrasie ontstaan het: Met dien verstande dat die hof waarin getrag word om die regsgeding in te stel, op voorwaardes wat hy wenslik ag om te stel maar behoudens die bepalinge van bedoelde artikel, die instelling van so 'n regsgeding, na bedoelde bekragtiging, kan veroorloof, as hy bevind dat daar 'n redelike verontskuldiging was vir die vertraging van die instelling van daardie geding.

76. (1) Wanneer 'n kurator van 'n insolvente boedel sy betrekking ontruim of bedank het of afgesit of oorlede is, dan verval geen voorheen ingestelde regsgeding waarby bedoelde boedel betrokke is, slegs as gevolg van die ontruiming, bedanking, afsetting of dood nie.

Voortsetting van
aanhangige
regsgeding deur
oorblywende of
nuwe kurator.

(2) Die hof waarin so 'n geding ahangig is, kan, nadat hy in kennis gestel is van die ontruiming, bedanking, afsetting of dood, toelaat dat die naam van die betrokke kurator vervang word deur die naam van die oorblywende of nuwe kurator, en die geding word daarop voortgeset asof die oorblywende of nuwe kurator oorspronklik die boedel in daardie geding verteenwoordig het.

77. 'n Kurator moet in die kennisgewing van sy aanstelling in die *Staatskoerant* volgens voorskrif van sub-artikel (2) van artikel *ses-en-vyftig*, alle persone wat iets skuld aan die boedel waarvan hy kurator is, oproep om hulle skulde te betaal binne 'n termyn en op 'n plek in daardie kennisgewing vermeld, en as een van hulle in gebreke bly om dit te doen, dan moet die kurator onverwyld van hom betaling invorder, indien nodig in regte.

Invordering van
boedel se inskulde.

78. (1) Die kurator kan van 'n skuldenaar van die insolvente boedel wat nie in staat is om sy skuld ten volle te betaal nie, 'n redelike deel van die skuld tot delging van die hele skuld aanneem, of aan 'n skuldenaar van die boedel uitstel van betaling van sy skuld toestaan, vir sover as wat dit bestaanbaar is met die bepalinge van artikel *een-en-negentig*: Met dien verstande dat as die skuld meer as vyftig pond bedra, die kurator nie 'n deel van die skuld tot delging van die hele skuld mag aanneem nie, tensy die skuldeisers, of as geen skuldeiser sy vordering teen die boedel bewys het nie, die Meester hom daartoe gemagtig het.

Tydsverlenging
vir betaling of
skikking:
omtrent inskulde
van boedel; ei.
arbitrasie.

(2) As die kurator daartoe gemagtig is deur die skuldeisers, of as geen skuldeiser 'n vordering teen die boedel bewys het nie, deur die Meester, kan hy 'n geskil aangaande die boedel of 'n vordering of eis teen die boedel aan skeidsregters ter beslegting onderwerp, mits die teëparty tot arbitrasie toestem.

(3) As die kurator daartoe gemagtig is deur die skuldeisers, of as geen skuldeiser 'n vordering teen die boedel bewys het nie, deur die Meester, kan hy in verband met 'n vordering teen die boedel, hetsy dit gelikwider of ongelikwider is, 'n skikking aangaan of dit erken indien bewys daarvan op 'n byeenkoms van skuldeisers aangebied is maar die vordering geheel of gedeeltelik afgewys is. Wanneer aldus 'n skikking

compromised or admitted, or when it has been settled by a judgment of a court, it shall be deemed to have been proved and admitted against the estate in the manner set forth in section *forty-four*, unless the creditor informs the trustee in writing within seven days of the compromise or admission or judgment that he abandons his claim: Provided that the preceding provisions of this sub-section shall not debar the trustee from appealing against such judgment, if authorized thereto by the creditors.

Subsistence allowance for insolvent and family.

79. At any time before the second meeting of creditors the trustee may, with the consent of the Master, allow the insolvent such moderate sum of money or such moderate quantity of goods out of the estate as may appear to the trustee to be necessary for the support of the insolvent and his dependants.

Continuation of insolvent's business.

80. (1) A trustee shall not carry on the business of the insolvent concerned or any part thereof unless authorized thereto by the creditors of the insolvent's estate or, in the absence of instructions from the creditors, by the Master.

(2) If the trustee is authorized to carry on any such business, he shall, unless the creditors have otherwise directed him, purchase for cash only and only out of the takings of that business any goods which he may require for that business.

Trustees report to creditors.

81. (1) A trustee shall investigate the affairs and transactions of the insolvent concerned before the sequestration of his estate and shall, at the second meeting or at an adjourned second meeting of the creditors of that estate, submit a full written report on those affairs and transactions and on any matter of importance relating to the insolvent or the estate, and more especially in regard to—

- (a) the assets and liabilities of the estate ;
- (b) the cause of the debtor's insolvency ;
- (c) the books relating to the insolvent's affairs, and the question whether the insolvent appears to have kept a proper record of his transactions, and if not, in what respect the record is insufficient, defective or incorrect ;
- (d) the question whether the insolvent appears to have contravened this Act or to have committed any other offence ;
- (e) any allowance he has made to the insolvent in terms of section *seventy-nine* and the reasons therefor ;
- (f) any business which he may have been carrying on on behalf of the estate, any goods he may have purchased for that business, and the result of carrying on that business ;
- (g) any legal proceedings instituted by or against the insolvent which were suspended by the sequestration of his estate which may be pending or threatened against the estate ;
- (h) any matter mentioned in section *thirty-five* or *thirty-seven* ;
- (i) any matter in regard to the administration or realization of the estate requiring the direction of the creditors.

(2) For the purpose of any investigation mentioned in sub-section (1) the Commissioner for Inland Revenue and the officers under him shall (notwithstanding the provisions of the law relating to income tax) permit a trustee to inspect any return rendered to the Commissioner by or on behalf of the insolvent in question in connection with income tax, and shall permit the trustee to make copies of any such return. At the request of the trustee the said Commissioner or any officer under him who is in charge of any such return shall certify as correct any such copy which is correct, and if any entry in such return is relevant in any proceedings, whether civil or criminal, in which the insolvent estate or the insolvent is involved, that return or a copy thereof, purporting to have been certified as aforesaid, shall be admissible in evidence in those proceedings, on its mere production by any person and any such certified copy shall have the same force and effect as the original return.

(3) The creditors may direct what action the trustee shall take in regard to any matter reported to them under paragraph (e), (f), (g), (h) or (i) of sub-section (1) and failing any such directions the trustee may exercise his discretion in any such matter, but subject to any provision of this Act relating thereto.

(4) The trustee shall render such assistance in connection with any prosecution or contemplated prosecution of the insolvent, under this Act, as the Master may direct him to render.

in verband met 'n vordering aangegaan is of 'n vordering aldus erken is of dit deur die vonnis van 'n hof besleg is, dan word dit geag volgens voorskrif van artikel *vier-en-veertig* teen die boedel bewys en toegelaat te wees, tensy die skuldeiser aan die kurator binne sewe dae na die skikking, erkenning of vonnis skriftelik meedeel dat hy sy vordering prysgee: Met dien verstande dat die voorgaande bepalings van hierdie sub-artikel die kurator nie belet nie om teen bedoelde vonnis te appelleer, as die skuldeisers hom daartoe gemagtig het.

79. Te eniger tyd voor die tweede byeenkoms van skuldeisers kan die kurator, met toestemming van die Meester, aan die insolvent so 'n matige som geld of so 'n matige hoeveelheid goedere uit die boedel toestaan as wat volgens die kurator se oordeel nodig mag wees tot onderhoud van die insolvent en diegenes wat van hom afhanklik is.

Onderhoudstoelae aan insolvent en sy gesin.

80. (1) 'n Kurator mag nie die besigheid of 'n deel van die besigheid van die betrokke insolvent voortset nie, tensy hy daartoe gemagtig is deur die skuldeisers van die insolvente boedel, of by ontstentenis van voorskrifte van die skuldeisers, deur die Meester.

Voortsetting van insolvent se besigheid.

(2) As die kurator gemagtig is om so 'n besigheid voort te sit, moet hy, tensy die skuldeisers hom anders gelas het, goedere, wat hy vir daardie besigheid mag nodig hê, alleen maar teen kontant en alleen maar uit die inkomste van daardie besigheid koop.

81. (1) 'n Kurator moet die sake en regshandelings van die betrokke insolvent voor die sekwestrasie van sy boedel ondersoek en op die tweede byeenkoms of op die verdaagde tweede byeenkoms van die skuldeisers van daardie boedel 'n volledige skriftelike verslag indien oor daardie sake en regshandelings en oor elke aangeleentheid van belang wat op die insolvent of die boedel betrekking het en vernaamlik omtrent—

Kurator se verslag aan skuldeisers.

- (a) die bate en skulde van die boedel;
- (b) die oorsaak van die skuldenaar se insolvensie;
- (c) die boeke wat op die insolvent se sake betrekking het en die vraag of die insolvent blykbaar van sy regshandelings behoorlik boek gehou het en so nie, in watter opsig die boekhouding onvoldoende, gebrekkig of onjuis is;
- (d) die vraag of die insolvent blykbaar hierdie Wet oortree of 'n ander misdryf begaan het;
- (e) wat hy volgens artikel *nege-en-sewentig* aan die insolvent mag toegestaan het en die rede daarvoor;
- (f) enige besigheid wat hy namens die boedel mag gedryf het, die goedere wat hy vir daardie besigheid mag gekoop het en die gevolge van die drywe van daardie besigheid;
- (g) elke regsgeding deur of teen die insolvent ingestel, wat deur die sekwestrasie van sy boedel opgeskort is of wat teen die boedel aanhangig is of dreig;
- (h) elke aangeleentheid vermeld in artikel *vyf-en-dertig* of *sewe-en-dertig*;
- (i) elke aangeleentheid aangaande die beheer of die tegeldemaking van die boedel wat die voorskrifte van die skuldeisers vereis.

(2) Vir 'n ondersoek vermeld in sub-artikel (1), moet die Kommissaris van Binnelandse Inkomste en die amptenare wat onder hom staan (ondanks die bepalings van die wet op inkomstebelasting) aan die kurator insage verleen van elke opgawe wat deur of namens die betrokke insolvent in verband met inkomstebelasting aan die Kommissaris gedaan is en moet aan die kurator toestaan om 'n afskrif van so 'n opgawe te maak. Op versoek van die kurator moet bedoelde Kommissaris of 'n amptenaar onder hom, in wie se bewaaring so 'n opgawe is, so 'n afskrif wat juis is, as juis waarmerk, en as 'n aantekening in so 'n opgaaf relevant is in een of ander geding, hetsy siviël of krimineel, waarby die insolvente boedel of die insolvent betrokke is, dan kan daardie opgawe of 'n afskrif daarvan wat voorgee om soas voormeld gewaarmerk te wees, in daardie geding as getuienis aangevoer word by blote oorlegging deur wie ook al en so 'n gewaarmerkte afskrif het dieselfde regskrag as die oorspronklike opgawe.

(3) Die skuldeisers kan aan die kurator voorskrywe watter gedragslyn hy moet volg met betrekking tot 'n aangeleentheid waaromtrent aan hulle verslag gedoen is volgens paragraaf (e), (f), (g), (h) of (i) van sub-artikel (1) en by ontstentenis van sulke voorskrifte, kan die kurator in daardie aangeleentheid volgens goeddunke handel, dog met inagneming van een of ander bepaling van hierdie Wet wat daarop betrekking het.

(4) Die kurator moet die hulp verleen in verband met 'n vervolging of voorgenome vervolging van die insolvent kragtens hierdie Wet, wat die Meester hom mag gelas om te verleen.

Sale of property after second meeting and manner of sale.

82. (1) Subject to the provisions of sections *eighty-three* and *ninety* the trustee of an insolvent estate shall, as soon as he is authorized to do so at the second meeting of the creditors of that estate, sell all the property in that estate in such manner and upon such conditions as the creditors may direct: Provided that if any rights acquired from the State under a lease, licence, purchase, or allotment of land is an asset in that estate, the trustee shall, in his administration of the estate, act in accordance with those provisions (if any) which by the law under which the rights were acquired, are expressed to apply in the event of the sequestration of the estate of the person who acquired those rights: Provided that if the creditors have not prior to the final closing of the second meeting of creditors of that estate given any directions the trustee shall sell all the property by public auction or public tender. A sale by public auction or public tender shall be after notice in the *Gazette* and after such other notices as the Master may direct and in the absence of directions from creditors as to the conditions of sale, upon such conditions as the Master may direct.

(2) When the sale is by public tender, every tenderer shall transmit his tender in duplicate in a sealed envelope to the Master, or if the Master has so directed, to a magistrate specified by him. The Master or such magistrate shall keep each tender unopened until the expiry of the period for the lodging of tenders. He shall then open the sealed envelopes and, in the case of the Master, file one duplicate of each tender or, in the case of the magistrate, transmit one duplicate of each tender to the Master. The Master or the magistrate (as the case may be) shall forthwith transmit the other duplicate of each tender to the trustee. The trustee or his representative shall have the right to be present when the Master or the magistrate opens the tenders.

(3) If, after the opening of the tenders, any person makes an offer for the property to which the tenders relate, it shall be rejected although it may be better than the best tender: Provided that if such person—

- (a) requests the trustee to call for fresh tenders and pays to him the expenses to be incurred in connection therewith; and
- (b) undertakes to tender for the property in question, and to pay, if his tender is accepted, an amount not less than the amount of the said offer; and
- (c) deposits with the trustee the sum of one hundred pounds or a bank guarantee for the payment of that sum,

the trustee shall call for fresh tenders and notify that fact and the amount of the aforesaid offer to every person who tendered previously.

(4) If the person who made the aforesaid offer, fails to make a tender equal to or better than the said offer, the said sum of one hundred pounds shall be forfeited to the estate.

(5) After the opening of the fresh tenders no further offer for the property in question shall be considered and unless the creditors have otherwise directed, or if they have given no directions, unless the Master has otherwise directed, the trustee shall accept the best tender or reject all the tenders and sell the property by public auction.

(6) From the sale of the movable property shall be excepted the wearing apparel and bedding of the insolvent and the whole or such part of his household furniture, and tools and other essential means of subsistence as the creditors, or if no creditor has proved a claim against the estate, as the Master may determine and the insolvent shall be allowed to retain, for his own use any property so excepted from the sale.

(7) The trustee or an auctioneer employed to sell property of the estate in question, or the trustee's or the auctioneer's spouse, partner, employer, employee or agent shall not acquire any property of the estate unless the acquisition is confirmed by an order of the Court.

(8) If any person other than a person mentioned in sub-section (7) has purchased in good faith from an insolvent estate any property which was sold to him in contravention of this section, or if any person in good faith and for value acquired from a person mentioned in sub-section (7) any property

82. (1) Behoudens die bepalinge van artikels *drie-en-tagtig* en *negentig*, moet die kurator van 'n insolvente boedel sodra hy daartoe gemagtig word op die tweede byeenkoms van die skuldeisers van daardie boedel, al die goedere in daardie boedel verkoop en wel op die wyse en voorwaardes wat die skuldeisers mag voorskrywe: Met dien verstande dat as bate in daardie boedel bestaan uit regte, kragtens 'n huur, lisensie, koop of toekening van grond van die Staat verkry, die kurator by sy beredding van die boedel moet handel volgens die bepalinge (as daar bestaan) wat deur die wet, uit kragte waarvan die regte verkry is, verklaar word van toepassing te wees in geval die boedel van die persoon, wat daardie regte verkry het, gesekwestreer word: Met dien verstande dat, as die skuldeisers voor die finale sluiting van die tweede vergadering van skuldeisers van daardie boedel geen instruksies gegee het nie, die kurator die goedere by openbare veiling of openbare inskrywing moet verkoop. As goed by openbare veiling of openbare inskrywing verkoop word, moet daarvan vooraf kennis gegee word in die *Staatskoerant* en op sodanige ander wyse as wat die Meester mag voorskrywe en as die skuldeisers geen verkoopsvoorwaardes voorgeskrywe het nie, moet die goed verkoop word op die voorwaardes wat die Meester mag voorskrywe.

Verkoop van goedere na tweede byeenkoms en wyse van verkoping.

(2) Wanneer goed by openbare inskrywing verkoop word, moet elkeen wat inskrywe sy inskrywing in tweevoud in 'n verseelde koevert stuur aan die Meester of as die Meester dit gelas het, aan 'n magistraat deur hom aangegee. Die Meester of bedoelde magistraat moet elke inskrywing ongeopen hou totdat die termyn van inskrywing verstryk is. Dan moet hy die verseelde koeverte open en as dit die Meester betref, een eksemplaar van elke inskrywing bewaar of as dit die magistraat betref, een eksemplaar van die inskrywing aan die Meester stuur. Die Meester of die magistraat (al na die geval) moet onverwyld die ander eksemplaar van elke inskrywing aan die kurator stuur. Die kurator of sy verteenwoordiger het die reg om teenwoordig te wees wanneer die Meester of die magistraat die inskrywings open.

(3) As iemand na die opening van die inskrywings 'n aanbod doen vir die goed waarop die inskrywings betrekking het, moet dit afgewys word alhoewel dit beter is as die beste inskrywing: Met dien verstande dat as bedoelde persoon—

- (a) die kurator versoek om nuwe inskrywings te vra en aan hom die koste betaal wat in verband daarmee gemaak sal word; en
- (b) belowe om op die betrokke goed in te skrywe en om, as sy inskrywing aangeneem word, nie minder te betaal nie as die bedrag van sy voormelde aanbod; en
- (c) by die kurator deponeer die som van honderd pond of 'n bankgaransie vir die betaling van daardie som, dan moet die kurator nuwe inskrywings vra en daarvan en van voormelde aanbod kennis gee aan elkeen wat voorheen ingeskrywe het.

(4) As die persoon wat voormelde aanbod gedaan het, in gebreke bly om 'n inskrywing in te dien wat met voormelde aanbod gelykstaan of dit oortref, dan verval bedoelde som van honderd pond aan die boedel.

(5) Na die opening van die nuwe inskrywings word geen verdere aanbod vir die betrokke goed in aanmerking geneem nie en tensy die skuldeisers anders gelas het of as hulle geen voorskrifte gegee het nie, tensy die Meester anders gelas het, moet die kurator die beste inskrywing aanneem of alle inskrywings afwys en die goed by publieke veiling verkoop.

(6) Van die verkoping van die roerende goed word uitgesluit die klere en beddegoed van die insolvent en al sy huisraad en gereedskap en ander noodsaaklike middele van bestaan of soveel daarvan as wat die skuldeisers, of as geen skuldeiser 'n vordering teen die boedel bewys het nie, die Meester mag bepaal, en die insolvent mag alle goed wat aldus van die verkoping uitgesluit is, vir sy eie gebruik behou.

(7) Die kurator of 'n venduafslaer wat belas is met die verkoping van goed van die betrokke boedel, of die eggenote of eggenoot, vennoot, werkgewer, werknemer of verteenwoordiger van die kurator of venduafslaer, mag geen goed van die boedel verkry nie tensy die verkryging deur 'n order van die hof bekragtig word.

(8) As iemand anders as 'n persoon bedoel in sub-artikel (7) te goeder trou goed uit 'n insolvente boedel gekoop het, wat in stryd met hierdie artikel aan hom verkoop is, of as iemand te goeder trou en vir waarde van 'n persoon bedoel in sub-artikel (7) goed verkry het, wat laasbedoelde persoon in

which the lastmentioned person acquired from an insolvent estate in contravention of that sub-section, the purchase or other acquisition shall nevertheless be valid, but the person who sold or otherwise disposed of the property shall be liable to make good to the estate twice the amount of the loss which the estate may have sustained as a result of the dealing with the property in contravention of this section.

Realization of securities for claims.

83. (1) A creditor of an insolvent estate who holds as security for his claim any movable property shall, before the second meeting of the creditors of that estate, give notice in writing of that fact to the Master, and to the trustee if one has been appointed.

(2) If such property consists of a marketable security or a bill of exchange, the creditor may, after giving the notice mentioned in sub-section (1) and before the second meeting of creditors, realise the property in the manner and on the conditions mentioned in sub-section (8).

(3) If such property does not consist of a marketable security or a bill of exchange, the trustee may, within seven days as from the receipt of the notice mentioned in sub-section (1) or within seven days as from the date upon which the certificate of appointment issued by the Master in terms of sub-section (1) of section *eighteen* or sub-section (2) of section *fifty-six* reached him, whichever be the later, take over the property from the creditor at a value agreed upon between the trustee and the creditor or at the full amount of the creditor's claim, and if the trustee does not so take over the property the creditor may, after the expiration of the said period but before the said meeting, realise the property in the manner and on the conditions mentioned in sub-section (8).

(4) If no trustee has been appointed before the said meeting, the creditor may, with the permission in writing of the Master and before the said meeting, realise in manner and on the conditions mentioned in sub-section (8) any such property which he is not entitled to realise in terms of sub-section (2).

(5) The creditor shall, as soon as possible after he has realized such property, prove in terms of section *forty-four* the claim thereby secured and he shall attach to the affidavit submitted in proof of his claim a statement of the proceeds of the realization and of the facts on which he relies for his preference.

(6) If he has not so realized such property before the second meeting of creditors, he shall as soon as possible after the commencement of that meeting deliver the property to the trustee, for the benefit of the insolvent estate and if the creditor has not delivered the said property to the trustee within a period of three days as from the commencement of the said meeting the trustee may demand from him delivery of such property. If the creditor fails to comply with such demand of the trustee, the Master, at the request of the trustee and after notice to the creditor shall direct the deputy-sheriff within whose area of jurisdiction the property is situate to attach the property and to deliver it to the trustee, and in that case the creditor shall be liable for the deputy-sheriff's costs, as taxed and allowed by the Master. If those costs cannot be recovered from the creditor, they shall be paid out of the estate as part of the costs of the sequestration.

(7) When the trustee has received the property mentioned in sub-section (6), the said creditor may prove his claim and place a value upon the said property in terms of sub-section (4) of section *forty-four*.

(8) The creditor may realise such property in the manner and on the conditions following, that is to say—

- (a) if it is any property of a class ordinarily sold through a stockbroker the creditor may forthwith sell it through a broker approved of by the trustee or the Master;
- (b) if it is a bill of exchange, the creditor may realise it in any manner approved of by the trustee or by the Master;
- (c) if it consists of a right of action, the creditor shall not realise it except with the approval of the trustee or of the Master;
- (d) if it is any other property, the creditor may sell it by public auction after affording the trustee a reasonable opportunity to inspect it and after giving such notice of the time and place of the sale as the trustee directed.

stryd met daardie sub-artikel uit 'n insolvente boedel verkry het, dan is die koop of ander verkryging desnietemin geldig, dog die persoon wat die goed verkoop of andersins van die hand gesit het is teenoor die boedel aanspreeklik tot vergoeding van tweemaal die bedrag van die verlies wat die boedel mag gely het as gevolg van die beskikking oor die goed in stryd met hierdie artikel.

83. (1) 'n Skuldeiser van 'n insolvente boedel wat in besit is van roerende goed as sekuriteit vir sy vordering, moet voor die tweede byeenkoms van die skuldeisers van daardie boedel daarvan skriftelik kennis gee aan die Meester en aan die kurator, indien een aangestel is. Tegeldemaking van sekuriteite vir vorderings.

(2) As daardie goed bestaan uit effekte of 'n wissel, dan kan die skuldeiser, nadat hy kennis gegee het soas bepaal in sub-artikel (1) en voor die tweede byeenkoms van skuldeisers, die goed te gelde maak op die wyse en voorwaardes bepaal in sub-artikel (8).

(3) As daardie goed nie uit effekte of 'n wissel bestaan nie, dan kan die kurator binne sewe dae vanaf ontvangs van die kennisgewing bedoel in sub-artikel (1) of binne sewe dae vanaf die datum waarop die sertifikaat van aanstelling deur die Meester uitgereik kragtens sub-artikel (1) van artikel *agtien* of sub-artikel (2) van artikel *ses-en-veftig* hom bereik het (na gelang die een of die ander later is), die goed van die skuldeiser oorneem teen 'n waarde deur die kurator en skuldeiser by ooreenkoms bepaal of teen die volle bedrag van die skuldeiser se vordering, en as die kurator nie die goed aldus oorneem nie, dan kan die skuldeiser, na verstryking van bedoelde termyn dog voor bedoelde byeenkoms, die goed te gelde maak op die wyse en voorwaardes bepaal in sub-artikel (8).

(4) As voor bedoelde byeenkoms geen kurator aangestel is nie, dan kan die skuldeiser met die skriftelike toestemming van die Meester en voor bedoelde byeenkoms, alle goed wat hy nie kragtens sub-artikel (2) te gelde kan maak nie, op die wyse en voorwaardes bepaal in sub-artikel (8), te gelde maak.

(5) Die skuldeiser moet, so spoedig moontlik nadat hy bedoelde goed te gelde gemaak het, die daardeur versekerde vordering volgens artikel *vier-en-veertig* bewys, en hy moet aan die beëdigde verklaring wat hy tot bewys van sy vordering indien, 'n opgawe heg van die opbrings van die tegeldemaking en van die feite waarop sy preferensie steun.

(6) As hy nie daardie goed voor die tweede byeenkoms van skuldeisers aldus te gelde gemaak het nie, dan moet hy so spoedig moontlik na die aanvang van daardie byeenkoms die goed aan die kurator oorhandig ten bate van die insolvente boedel en as die skuldeiser bedoelde goed nie aan die kurator binne 'n termyn van drie dae vanaf die aanvang van bedoelde byeenkoms oorhandig het nie, dan kan die kurator van hom afgifte van daardie goed eis. As die skuldeiser in gebreke bly om aan daardie eis van die kurator te voldoen, dan kan die Meester, op versoek van die kurator en na kennisgewing aan die skuldeiser, die onderbalju in wie se ampsgebied die goed geleë is, gelas om die goed in beslag te neem en dit aan die kurator te lewer en in daardie geval is die skuldeiser aanspreeklik vir die onderbalju se koste, soas getakseer en toegestaan deur die Meester. As daardie koste nie op die skuldeiser verhaal kan word nie, word hulle uit die boedel betaal as deel van die sekwestrasiekoste.

(7) Wanneer die kurator die in sub-artikel (6) bedoelde goed ontvang het, kan bedoelde skuldeiser sy vordering bewys en bedoelde goed waardeer kragtens sub-artikel (4) van artikel *vier-en-veertig*.

(8) Die skuldeiser kan daardie goed op die volgende wyse en voorwaardes te gelde maak, te wete—

- (a) as dit bestaan uit goed van 'n soort wat gewoonlik deur 'n effekte-makelaar verkoop word, kan die skuldeiser dit onverwyld verkoop deur 'n makelaar deur die kurator of die Meester goedgekeur;
- (b) as dit 'n wissel is, kan die skuldeiser dit op enige wyse deur die kurator of deur die Meester goedgekeur, te gelde maak;
- (c) as dit uit 'n regsvordering bestaan, mag die skuldeiser dit nie sonder goedkeuring van die kurator of die Meester te gelde maak nie;
- (d) as dit uit ander goed bestaan, kan die skuldeiser dit by openbare veiling verkoop nadat hy aan die kurator 'n redelike geleentheid gegee het om dit te besigtig en nadat hy van die tyd en plek van die verkoping sodanig kennis gegee het, as wat die kurator gelas het.

(9) As soon as the trustee has directed a creditor in terms of paragraph (d) of sub-section (8) to give notice of a sale by public auction, the trustee shall give notice in writing to all the other creditors of the estate in question of the time and place of the proposed sale.

(10) Whenever a creditor has realised his security as hereinbefore provided he shall forthwith pay the nett proceeds of the realization to the trustee, or if there is no trustee, to the Master and thereafter the creditor shall be entitled to payment, out of such proceeds, of his preferent claim if such claim was proved and admitted as provided by section *forty-four* and the trustee or the Master is satisfied that the claim was in fact secured by the property so realised. If the trustee disputes the preference, the creditor may either lay before the Master an objection under section *one hundred and eleven* to the trustee's account, or apply to Court, after notice of motion to the trustee, for an order compelling the trustee to pay him forthwith. Upon such application the Court may make such order as to it seems just.

(11) If a creditor has valued his security when proving his claim, the trustee, if authorized by the creditors, may, unless the creditor has realized his security in terms of sub-section (2) or (3), within three months as from the date of his appointment or as from the date of the proof of the claim (whichever is the later) take over the property which constitutes the security (whether that property be movable or immovable) at the value placed thereon by the creditor when his claim was proved: Provided that if two or more creditors have a pledge or mortgage of the same property, a creditor who has valued his security shall be deemed to have valued, and the trustee shall be entitled to take over, only the preferent rights of the creditor in respect of the property, and not the property itself. If the trustee does not, within that period, take over the said property or security he shall realise it for the benefit of all creditors whose claims are secured thereby, according to their respective rights.

(12) If the claim of a secured creditor exceeds the sum payable to him in respect of his security he shall be entitled to rank against the estate in respect of the excess, as an unsecured creditor, and if the nett proceeds of any such property exceed all claims secured thereby the balance, after payment of those claims, shall be added to the other free residue (if any) in the estate in question.

(13) The provisions of this section shall apply *mutatis mutandis* in respect of any separate creditor for value of a solvent spouse mentioned in section *twenty-one*, whose claim against that spouse is secured by any special mortgage, landlord's legal hypothec, pledge or right of retention in respect of any property belonging to that spouse.

Special provision in case of sale of goods under a suspensive condition or of hire-purchase agreement.

84. (1) If any property was delivered to a person (hereinafter referred to as the debtor) under an agreement which provided for the passing of the ownership of that property when certain payments prescribed in the agreement have been made, such agreement shall be regarded on the sequestration of the debtor's estate as creating in favour of the other party to the agreement (hereinafter referred to as the creditor) a hypothec over that property whereby the amount still due to him under the agreement is secured. The trustee of the debtor's insolvent estate shall, if required by the creditor, deliver the property to him, and thereupon the creditor shall be deemed to be holding that property as security for his claim and the provisions of section *eighty-three* shall apply.

(2) If the debtor returned the property to the creditor within a period of one month prior to the sequestration of the debtor's estate, the trustee may demand that the creditor deliver to him that property or the value thereof at the date when it was so returned to the creditor, subject to payment to the creditor by the trustee or to deduction from the value (as the case may be) of the difference between the total amount payable under the said agreement and the total amount actually paid thereunder. If the property is delivered to the trustee the provisions of sub-section (1) shall apply.

(9) Sodra die kurator 'n skuldeiser volgens paragraaf (d) van sub-artikel (8) gelas het om van 'n verkoping by openbare veiling kennis te gee, moet die kurator aan al die ander skuldeisers van die betrokke boedel skriftelik kennis gee van die tyd en plek van die voorgenome verkoping.

(10) Wanneer 'n skuldeiser sy sekuriteit volgens voorgaande bepalings te gelde gemaak het, moet hy onverwyld die netto-opbrings van die tegeldemaking oorbetal aan die kurator, of as daar geen kurator is nie, aan die Meester en daarop is die skuldeiser geregtig op betaling, uit daardie opbrings, van sy preferente vordering as daardie vordering volgens voorskrif van artikel *vier-en-veertig* bewys en toegelaat is en die kurator of die Meester van oordeel is dat die vordering inderdaad deur die aldus tegeldegemaakte goed verseker was. As die kurator die preferensie betwis, dan kan die skuldeiser of volgens artikel *honderd-en-elf* by die Meester verset teen die kuratorsrekening aanteken, of die hof versoek, na kennisgewing van die mosie aan die kurator, om 'n bevel dat die kurator hom onverwyld moet betaal. Op daardie versoek kan die hof beskik soas hy billik ag.

(11) As 'n skuldeiser by die bewys van sy vordering sy sekuriteit gewaardeer het, dan kan die kurator, indien deur die skuldeisers gemagtig, tensy die skuldeiser sy sekuriteit kragtens sub-artikel (2) of (3) te gelde gemaak het, binne drie maande vanaf die dag van sy aanstelling of vanaf die dag waarop die vordering bewys is (na gelang die een of die ander later is) die goed wat die sekuriteit uitmaak (onverskillig of daardie goed roerend of onroerend is) oorneem teen die bedrag waarop die skuldeiser dit gewaardeer het toe sy vordering bewys is: Met dien verstande dat as twee of meer skuldeisers 'n pandreg of verband op dieselfde goed het, dan word 'n skuldeiser wat sy sekuriteit gewaardeer het, geag slegs sy preferente regte op daardie goed te gewaardeer het en is die kurator geregtig om slegs daardie regte oor te neem en nie die goed self nie. As die kurator nie binne daardie termyn bedoelde goed of sekuriteit oorneem nie, dan moet hy dit te gelde maak ten bate van alle skuldeisers wie se vorderings daardeur verseker is, na gelang van hulle respektiewe regte.

(12) As die vordering van 'n versekerde skuldeiser meer bedra as die som wat ten opsigte van sy sekuriteit aan hom verskuldig is, dan is hy geregtig om ten opsigte van daardie meerdere bedrag as 'n onversekerde skuldeiser van die boedel gerangskik te word en as die netto-opbrings van sulke goed meer bedra as alle daardeur versekerde vorderings, dan word die oorskot, na betaling van daardie vorderings gevoeg by die ander vrye oorskot (as daar een is) van die betrokke boedel.

(13) Die bepalings van hierdie artikel is *mutatis mutandis* van toepassing met betrekking tot 'n afsonderlike skuldeiser vir waarde van 'n solvente eggenoot bedoel in artikel *een-en-twintig*, wie se vordering teen daardie eggenoot verseker is deur 'n spesiale verband, stilswygende hipoteek van 'n verhuurder, pand of retensiereg met betrekking tot goed wat aan daardie eggenoot behoort.

84. (1) As goed aan iemand (hieronder die skuldenaar genoem) gelewer is ingevolge 'n ooreenkoms wat voorsiening gemaak het vir die oorgang van die eiendom van daardie goed wanneer sekere in die ooreenkoms voorgeskrewe betalings gedaan is, dan word die ooreenkoms by die sekwestrasie van die skuldenaar se boedel geag ten gunste van die ander party tot daardie ooreenkoms (hieronder die skuldeiser genoem) 'n hipoteek op daardie goed te vestig, waardeur die bedrag wat ingevolge die ooreenkoms nog aan hom verskuldig is, verseker word. Die kurator van die skuldenaar se insolvente boedel moet, indien die skuldeiser dit verlang, die goed aan hom oorhandig en daarop word die skuldeiser geag daardie goed te besit as sekuriteit vir sy vordering en is die bepalings van artikel *drie-en-tagtig* van toepassing.

Spesiale bepaling omtrent verkoop van goed met opskortende voorwaarde of van huurkoopkontrak.

(2) As die skuldenaar die goed binne een maand voor die sekwestrasie van sy boedel aan die skuldeiser teruggegee het, dan kan die kurator van die skuldeiser verlang dat hy daardie goed of die waarde daarvan op die dag toe dit aldus aan die skuldeiser teruggegee is, aan hom moet oorhandig, mits die kurator die verskil tussen die totale bedrag wat ingevolge die ooreenkoms verskuldig is en die bedrag wat werklik ingevolge daarvan betaal is, al na die geval, aan die skuldeiser betaal of van voormelde waarde aftrek. As die goed aan die kurator oorhandig word, is die bepalings van sub-artikel (1) van toepassing.

Exclusion or limitation of preference under legal hypothec.

85. (1) A tacit or legal hypothec (other than a landlord's legal hypothec or the hypothec mentioned in sub-section (1) of section *eighty-four*) shall not confer any preferent right against an insolvent estate.

(2) A landlord's legal hypothec shall confer a preference with regard to any article subject to that hypothec for any rent due in respect of any period immediately prior to and up to the date of sequestration but not exceeding—

- (a) three months, if the rent is payable monthly or at shorter intervals than one month;
- (b) six months, if the rent is payable at intervals exceeding one month but not exceeding three months;
- (c) nine months, if the rent is payable at intervals exceeding three months but not exceeding six months;
- (d) fifteen months in any other case.

Effect of general bond and general clause.

86. No general mortgage bond registered after the thirty-first day of December, 1916, shall confer any preference in respect of immovable property, and no general clause in a special mortgage bond registered after the said date shall confer any preference in respect of any property: Provided that the preceding provisions of this section shall not affect any preference conferred by a general clause in any mortgage bond passed before the commencement of this Act by a widower or widow in favour of a Master, for the purpose of securing the payment to his or her child of any sum of money due to the child from the estate of the widower's or widow's deceased spouse.

Ranking of mortgages for future debts.

87. Priority under any mortgage bond to secure the payment of future debts shall depend on the date of the registration of that mortgage bond, and not on the date upon which any such debt comes into existence.

Certain mortgages are invalid.

88. A mortgage bond, other than a kustingsbrief, whether special or general, passed for the purpose of securing the payment of a debt not previously secured, which was incurred more than two months prior to the lodging of the bond with the registrar of deeds concerned for registration or for the purpose of securing the payment of a debt incurred in novation of or substitution for any such first-mentioned debt, shall not confer any preference if the estate of the mortgage debtor is sequestered within a period of six months after such lodging: Provided that a mortgage bond shall be deemed not to have been lodged as aforesaid, if it was withdrawn from registration.

Costs to which securities are subject.

89. (1) The cost of maintaining, conserving, and realizing any property shall be paid out of the proceeds of that property, if sufficient, and if insufficient and that property is subject to a special mortgage, landlord's legal hypothec, pledge, or right of retention the deficiency shall be paid by those creditors, *pro rata*, who have proved their claims and who would have been entitled, in priority to other persons, to payment of their claims out of those proceeds if they had been sufficient to cover the said cost and those claims. The trustee's remuneration in respect of any such property and a proportionate share of the costs incurred by the trustee in giving security for his proper administration of the estate, calculated on the proceeds of the sale of the property, a proportionate share of the Master's fees, and if the property is immovable, any tax as defined in sub-section (5) which is or will become due thereon in respect of any period not exceeding two years immediately preceding the date of the sequestration of the estate in question and in respect of the period from that date to the date of the transfer of that property by the trustee of that estate, with any interest or penalty which may be due on the said tax in respect of any such period, shall form part of the costs of realization.

(2) If a secured creditor (other than a secured creditor upon whose petition the estate in question was sequestered) states in his affidavit submitted in support of his claim against the estate that he relies for the satisfaction of his claim solely on the proceeds of the property which constitutes his security, he shall not be liable for any costs of sequestration other

85. (1) 'n Stilswygende of wetlike hipoteek (behalwe die stilswygende hipoteek van die verhuurder of die hipoteek bedoel in sub-artikel (1) van artikel vier-en-tagtig) verleen geen preferente reg teenoor 'n insolvente boedel nie.

Uitsluiting of beperking van preferensie kragtens stilswygende hipoteek.

(2) Die stilswygende hipoteek van 'n verhuurder verleen 'n preferensie ten opsigte van 'n voorwerp wat aan daardie hipoteek onderworpe is weens huurloon wat verskuldig is vir 'n tydperk onmiddellik voor en tot op die dag van die sekwestrasie dog vir nie langer nie as—

- (a) drie maande, as die huur by die maand of by korter termyne as een maand verskuldig is;
- (b) ses maande, as die huur by termyne van langer as een maand maar nie langer as drie maande verskuldig is nie;
- (c) nege maande, as die huur by termyne van langer as drie maande maar nie langer as ses maande verskuldig is nie;
- (d) vyftien maande in elke ander geval.

86. Geen algemene verband wat na die een-en-dertigste dag van Desember 1916 geregistreer is, verleen enige preferensie met betrekking tot onroerende goed en geen algemene klousule in 'n spesiale verband wat na voormelde dag geregistreer is, verleen enige preferensie met betrekking tot enige goed nie: Met dien verstande dat die voorgaande bepalings van hierdie artikel geen inbreuk maak nie op 'n preferensie verleen in 'n algemene klousule in 'n verband deur 'n wewenaar of weduwee ten gunste van 'n Meester voor die inwerkingtreding van hierdie Wet gepasseer tot versekering van die betaling aan sy of haar kind, van 'n som geld wat aan die kind verskuldig is uit die boedel van die wewenaar of weduwee se oorlede eggenote of eggenoot.

Regskrag van algemene verband en algemene klousule.

87. Die voorrang verleen deur 'n verband tot versekering van die betaling van toekomstige skulde hang af van die dag van die registrasie van daardie verband en nie van die dag waarop so 'n skuld tot stand kom nie.

Rangorde van verbande vir toekomstige skulde.

88. 'n Ander verband as 'n kustingbrief (onverskillig of dit spesiaal dan wel algemeen is), gepasseer tot versekering van die betaling van 'n voorheen onversekerde skuld wat aangegaan is meer as twee maande voor die indiening van die verband by die betrokke registrateur van aktes om geregistreer te word of tot versekering van die betaling van skuld wat aangegaan is as 'n novasie of tot vervanging van so 'n eersbedoelde skuld, verleen geen preferensie nie as die boedel van die verbandskuldenaar gesekwestreer word binne 'n tydperk van ses maande na daardie indiening: Met dien verstande dat 'n verband beskou word nie soas voormeld ingedien te geword het nie, as dit weer aan die registrasie onttrek is.

Sekere verbande is ongeldig.

89. (1) Die koste van instandhouding, bewaring en tegeldemaking van goed word uit die opbrings van daardie goed betaal, as dit voldoende is, en as dit onvoldoende is en daardie goed is aan 'n spesiale verband, stilswygende hipoteek van 'n verhuurder, pandreg of retensiereg onderhewig word die tekort betaal deur dié skuldeisers *pro rata* wat hulle vorderings bewys het en wat geregtig sou gewees het, met voorrang bo ander persone, tot betaling van hulle vorderings uit daardie opbrings as dit voldoende gewees het om voormelde koste en daardie vorderings te dek. Die kurator se vergoeding met betrekking tot sodanige goed en 'n eweredige aandeel in die koste deur die kurator gemaak om sekuriteit te gee vir sy behoorlike beredding van die boedel, bereken volgens die opbrings van die verkoping van die goed, 'n eweredige deel van die Meester se fooie en as die goed onroerend is, enige belasting soos omskryf in sub-artikel (5), wat daarop verskuldig is of sal word ten opsigte van enige termyn van hoogstens twee jaar onmiddellik voorafgaande aan die datum van die sekwestrasie van die betrokke boedel en ten opsigte van die termyn vanaf daardie datum tot die datum van die transport van daardie goed deur die kurator van daardie boedel, met enige rente of boete wat verskuldig is op bedoelde belasting ten opsigte van enige sodanige termyn, maak deel uit van die koste van die tegeldemaking.

Koste wat ten laste van sekuriteit kom.

(2) As 'n ander versekerde skuldeiser dan die skuldeiser op wie se versoek die betrokke boedel gesekwestreer is, in sy beëdigde verklaring, ingedien tot stawing van sy vordering teen die boedel, te kenne gee dat hy hom tot voldoening van sy vordering uitsluitend verlaat op die opbrings van die goed waaruit sy sekuriteit bestaan, dan is hy nie aanspreeklik vir

than the costs specified in sub-section (1), and other than costs for which he may be liable under paragraph (a) or (b) of the proviso to section *one hundred and six*.

(3) Any interest due on a secured claim in respect of any period not exceeding two years immediately preceding the date of sequestration shall be likewise secured as if it were part of the capital sum.

(4) Notwithstanding the provisions of any law which prohibits the transfer of any immovable property unless any tax as defined in sub-section (5) due thereon has been paid, that law shall not debar the trustee of an insolvent estate from transferring any immovable property in that estate for the purpose of liquidating the estate, if he has paid the tax which may have been due on that property in respect of the periods mentioned in sub-section (1) and no preference shall be accorded to any claim for such a tax in respect of any other period.

(5) For the purposes of sub-sections (1) and (4) "tax" in relation to immovable property means any amount payable periodically in respect of that property to the State or for the benefit of a provincial administration or to a body established by or under the authority of any law in discharge of a liability to make such periodical payments, if that liability is an incident of the ownership of that property.

Land Bank not affected by this Act.

90. The provisions of this Act shall not affect the provisions of any other law which confer powers and impose duties upon the Land and Agricultural Bank of South Africa in relation to any property belonging to an insolvent estate.

Liquidation account and plan of distribution or contribution.

91. Subject to the provisions of sections *one hundred and nine* and *one hundred and ten*, a trustee shall—

(a) within a period of six months as from the date of his appointment, if the value of the assets in the estate in question amounts to two hundred and fifty pounds or more; or

(b) within a period of three months as from the date of his appointment, if the value of the assets in the estate amounts to less than two hundred and fifty pounds,

submit to the Master a liquidation account and a plan of distribution of the proceeds of the property in the estate available for payment to creditors, or, if all realizable property in the estate has been realized and brought to account and the proceeds are insufficient to cover the costs and charges mentioned in sections *ninety-six* and *ninety-seven*, a plan of contribution apportioning the liability for the deficiency among the creditors who are liable to contribute.

Manner of framing liquidation account.

92. (1) A liquidation account shall contain an accurate record of all moneys received and of all moneys disbursed by the trustee otherwise than in the course of a business which he carried on for the insolvent estate in question.

(2) The record of each such receipt and disbursement shall set forth the amount and date thereof and sufficient particulars to explain its nature.

(3) The liquidation account shall be accompanied by the trustee's bank pass-book and by vouchers in support of the record of receipts and disbursements.

(4) If a liquidation account is not the final liquidation account, the trustee shall further set forth therein—

(a) all property still unrealized;

(b) all outstanding debts due to the estate;

(c) the reasons why that property has not been realized or those debts have not been collected.

In that event the trustee shall, from time to time and as the Master may direct, but at least once in every six months, unless he has received an extension of time as provided in section *one hundred and nine*, frame and submit to the Master periodical accounts in form and in all other respects similar to the account mentioned in sub-sections (1) and (2).

(5) If the estate of a partnership is under sequestration, separate trustees' accounts shall be framed in the estate of the partnership and in the estate of each member of that partnership whose estate is under sequestration.

Trading account.

93. If the trustee has carried on any business on behalf of the estate, he shall submit to the Master, in addition to the liquidation account, a trading account containing the following data and no others, namely—

ander sekwestrasiekoste nie as die koste vermeld in sub-artikel (1) en die koste waarvoor hy volgens paragraaf (a) of (b) van die voorbehoudsbepaling tot artikel *honderd-en-ses* aanspreeklik mag wees.

(3) Alle op 'n versekerde vordering verskuldigde rente vir 'n tydperk van nie meer as twee jaar nie wat aan die sekwestrasiedag onmiddellik voorafgaan, is eweneens verseker, asof dit 'n deel van die hoofsom was.

(4) Nieteenstaande die bepalings van een of ander wet wat die transport van onroerende goed verbied tensy enige daarop verskuldigde belasting soos omskryf in sub-artikel (5) betaal is, belet daardie wet die kurator van 'n insolvente boedel nie om enige onroerende goed in daardie boedel te transporteer ten einde die boedel te likwideer nie, indien hy die belasting betaal het wat verskuldig mog gewees het op daardie goed ten opsigte van die in sub-artikel (1) bedoelde termyn en geen voorrang word verleen nie aan 'n vordering weens so 'n belasting ten opsigte van enige ander termyn.

(5) By die toepassing van sub-artikels (1) en (4) beteken „belasting” met betrekking tot onroerende goed 'n bedrag wat periodiek op daardie goed verskuldig is aan die Staat of ten bate van 'n provinsiale administrasie of aan 'n liggaam, deur of kragtens een of ander wet ingestel, tot voldoening aan 'n verpligting om sodanige periodieke betalings te maak, indien daardie verpligting voortspuit uit die eiendomsreg op daardie goed.

90. Die bepalings van hierdie Wet maak geen inbreuk nie op die bepalings van 'n ander wet wat aan die Land- en Landboubank van Suid-Afrika bevoegdhede verleen en verpligtings opleë met betrekking tot goed wat tot 'n insolvente boedel behoort. Hierdie Wet raak Landbank nie.

91. Behoudens die bepalings van artikels *honderd-en-nege* en *honderd-en-tien*, moet 'n kurator— Likwidasierekening, distribusierekening en kontribusierekening.

(a) binne 'n termyn van ses maande vanaf die dag van sy aanstelling, as die waarde van die bate in die betrokke boedel tweehonderd-en-vyftig pond of meer bedra; of

(b) binne 'n termyn van drie maande vanaf die dag van sy aanstelling, as die waarde van die bate in die boedel minder as tweehonderd-en-vyftig pond bedra.

aan die Meester voorlê 'n likwidasierekening en 'n distribusierekening van die oprings van die goed in die boedel, wat beskikbaar is vir betaling aan skuldeisers, of as alle vervreembare goed in die boedel te gelde gemaak en verantwoord is en die oprings is onvoldoende tot dekking van die koste vermeld in artikels *ses-en-negentig* en *sewe-en-negentig*, 'n kontribusierekening, waarin die aanspreeklikheid vir die tekort oor die kontribusiepligtige skuldeisers omgeslaan word.

92. (1) 'n Likwidasierekening moet 'n juiste opgawe bevat van alle gelde wat die kurator ontvang het en van alle gelde wat hy uitgegee het, buiten gelde ontvang of uitgegee in die loop van 'n besigheid wat hy ten behoewe van die betrokke insolvente boedel gedryf het. Wyse van opstelling van likwidasierekening.

(2) Die opgawe van alle sodanige ontvangste en uitgawe moet vermeld die bedrag en datum daarvan en voldoende besonderhede om die aard daarvan te verduidelik.

(3) Die likwidasierekening moet vergesel gaan van die kurator se bankboekie en van bewysstukke tot staving van die opgawe van ontvangste en uitgawes.

(4) As 'n likwidasierekening nie die finale likwidasierekening is nie, moet die kurator voorts daarin vermeld—

(a) alle nog nie tegeldegemaakte goed;

(b) alle uitstaande inskulde van die boedel;

(c) die redes waarom daardie goed nog nie te gelde gemaak of daardie inskulde nog nie ingevorder is nie.

In daardie geval moet die kurator van tyd tot tyd en soas die Meester mog gelas, maar minstens eenkeer elke ses maande, tensy hy volgens die bepalings van artikel *honderd-en-nege* uitstel gekry het, periodieke rekenings opstel en aan die Meester voorlê wat na hulle vorm en in alle ander opsigte ooreenkom met die rekening vermeld in sub-artikels (1) en (2).

(5) As die boedel van 'n vennootskap onder sekwestrasie is, moet in die boedel van die vennootskap en in die boedel van elke lid van die vennootskap wie se boedel onder sekwestrasie is, afsonderlike kuratorsrekenings opgestel word.

93. As die kurator namens die boedel 'n besigheid gedryf het, moet hy aan die Meester benewens die likwidasierekening ook 'n handelsrekening voorlê waarin uitsluitend die volgende gegewens voorkom, naamlik: Handelsrekening.

- (a) a record of the value of the stock on hand at the date of sequestration ;
- (b) a record of the value of the stock on hand on the date up to which the account is made up ;
- (c) the daily totals of receipts and payments in connection with the business ;
- (d) the result of his conduct of the business.

Form of plan of distribution.

94. A plan of distribution shall show in parallel columns under separate headings—

- (a) every claim or the part of every claim against the estate in question which is secured or otherwise preferent ;
- (b) every claim or the part of every claim against the estate which is unsecured and otherwise non-preferent ;
- (c) the amount awarded under that plan and under any previous plan of distribution to every creditor of the estate ;
- (d) the deficiency in respect of each claim ;

and shall make provision for the division of the proceeds of the property in the insolvent estate in the order of preference and in the manner set forth in sections *ninety-five* to *one hundred and four* inclusive.

Application of proceeds of securities.

95. (1) The proceeds of any property which was subject to a special mortgage, landlord's legal hypothec, pledge or right of retention, after deduction therefrom of the costs mentioned in sub-section (1) of section *eighty-nine*, shall be applied in satisfying the claims secured by the said property, in their order of preference, with interest thereon calculated in manner provided in sub-section (2) of section *one hundred and three* from the date of sequestration to the date of payment, but subject to the provisions of sub-section (4) of section *ninety-six*.

(2) If a creditor whose claim is secured by a mortgage over immovable property belonging to the insolvent estate has not proved his claim and the trustee is not satisfied that the debt in question has been discharged or abandoned, he shall deposit with the Master for payment into the Guardian's Fund the proceeds of the sale of any such property to an amount not exceeding such capital amount of the said mortgage and such arrears of interest as the mortgagee would have had a preferent right to claim, after deduction of an amount equal to the costs which he would have had to pay if he had proved his claim and had stated in the affidavit submitted in support of his claim that he relied for the satisfaction of his claim solely on the proceeds of the sale of the said property. The amount so deposited or the part thereof to which the former mortgagee may be entitled shall be paid to him if, within a period of one year after confirmation in terms of section *one hundred and twelve* of the distribution account under which the money is distributed, he applies therefor to the Master and the Master is satisfied after proof of his claim, that he is entitled to the amount or part thereof.

(3) Any amount deposited with the Master in terms of sub-section (2) which has not been paid out to the former mortgagee, as in that sub-section provided, shall after the expiry of the year mentioned in that sub-section be distributed among the creditors who have proved claims against the insolvent estate prior to the confirmation of the said distribution account, as if the amount had, at the time of such confirmation, been available for distribution among them.

(4) Any creditor claiming to be entitled to share in the said distribution shall make written application to the Master for payment of his share, and the Master may pay out to such creditor or may hand the money to the trustee, if any, for distribution among the creditors entitled thereto, or, if there is no trustee, may appoint a trustee on such conditions as he may think fit to impose for the purpose of making such distribution.

(5) Any trustee charged with the duty of making such a distribution shall submit to the Master a supplementary plan of distribution in respect thereof, and the provisions of this Act relating to a plan of distribution shall apply in respect of such supplementary plan.

Funeral and death-bed expenses.

96. (1) Any free residue of an insolvent estate shall be applied in the first place in defraying the expenses of the funeral of the insolvent, if he died before the trustee's first plan

- (a) 'n Opgawe van die waarde van die voorhande goedere-voorraad op die dag van die sekwestrasie;
- (b) 'n opgawe van die waarde van die voorhande goedere-voorraad op die dag tot wanneer die rekening opge-
maak is;
- (c) die daaglikse totale van ontvangste en betalings in
verband met die besigheid;
- (d) die gevolge van sy drywe van die besigheid.

94. 'n Distribusierekening moet aangee in ewewydige kolomme onder afsonderlike opskrifte—

Vorm van
distribusie-
rekening.

- (a) elke vordering of die deel van elke vordering teen die betrokke boedel wat verseker of andersins preferent is;
- (b) elke vordering of die deel van elke vordering teen die boedel wat onverseker en nie andersins preferent is nie;
- (c) die bedrag wat in daardie rekening en in elke vorige distribusierekening aan elke skuldeiser van die boedel toegeken is;
- (d) die tekort op elke vordering;

en moet voorsiening maak vir die verdeling van die opbrings van die goed in die insolvente boedel volgens die rangorde van preferensie en op die wyse bepaal in artikels *vyf-en-negentig* tot en met *honderd-en-vier*.

95. (1) Die opbrings van goed wat aan 'n spesiale verband, stilswygende hipoteek van 'n verhuurder, pandreg of retensiereg onderhewig is, word, na aftrek daarvan van die koste bedoel in sub-artikel (1) van artikel *negen-en-tagtig*, aangewend tot voldoening van die vorderings wat deur daardie goed verseker is, en wel volgens die rangorde van hulle preferensie, met rente daarop bereken volgens die voorskrif van sub-artikel (2) van artikel *honderd-en-drie*, vanaf die dag van die sekwestrasie tot die dag van betaling, dog behoudens die bepaling van sub-artikel (4) van artikel *ses-en-negentig*.

Aanwending van
opbrings van
sekuriteite.

(2) As 'n skuldeiser wie se vordering verseker is deur 'n verband op onroerende goed wat tot die insolvente boedel behoort, nie sy vordering bewys het en die kurator nie oortuig is dat die betrokke skuld voldoen of prysgegee is nie, dan moet hy die opbrings van die verkoping van daardie goed, tot 'n bedrag van nie meer as die kapitaalsom van bedoelde verband en die agterstallige rente waarop die verbandhouer 'n preferente vorderingsreg sou gehad het, na aftrek van 'n bedrag gelyk aan die koste wat hy sou moes betaal het as hy sy vordering bewys het en in sy beëdigde verklaring tot staving van sy vordering te kenne gegee het dat hy hom tot voldoening van sy vordering uitsluitend verlaat op die opbrings van die verkoping van bedoelde goed, in hande van die Meester deponeer, om in die voogdyfonds inbetaal te word. Die aldus gedeponeerde bedrag of die deel daarvan waarop die gewese verbandhouer geregtig mag wees, word aan hom uitbetaal as hy, binne 'n tydperk van een jaar na die bekragtiging volgens artikel *honderd-en-twaalf* van die distribusierekening volgens welke die geld verdeel word, daarom aansoek doen by die Meester en die Meester oortuig is na bewys van sy vordering, dat hy op daardie bedrag of deel daarvan geregtig is.

(3) 'n Bedrag wat volgens sub-artikel (2) by die Meester gedeponeer is en wat nie volgens voorskrif van daardie sub-artikel aan die gewese verbandhouer uitbetaal is nie, word, na verloop van die jaar in daardie sub-artikel vermeld, verdeel onder die skuldeisers wat voor die bekragtiging van bedoelde distribusierekening vorderings teen die insolvente boedel bewys het, asof die bedrag op die tydstip van daardie bekragtiging ter verdeling onder hulle beskikbaar gewees het.

(4) 'n Skuldeiser wat beweert dat hy geregtig is om by bedoelde verdeling in aanmerking te kom, moet by die Meester skriftelik aansoek doen om betaling van sy aandeel en die Meester kan daardie skuldeiser uitbetaal of kan die geld aan die kurator oorhandig (as daar een is), ter verdeling onder die skuldeisers wat daarop geregtig is, of as daar geen kurator is nie, dan kan hy 'n kurator aanstel op die voorwaardes wat die Meester mag wenslik ag om te stel, om daardie verdeling te maak.

(5) 'n Kurator aan wie so 'n verdeling opgedra word, moet in verband daarmee 'n aanvullende distribusierekening aan die Meester voorlê en die bepaling van hierdie Wet omtrent 'n distribusierekening is van toepassing in verband met so 'n aanvullende rekening.

96. (1) 'n Vrye oorskot van 'n insolvente boedel word aangewend in die eerste plek tot dekking van die koste van die begrafnis van die insolvent, as hy oorlede is voordat die

Begrafnis- en
sterfbed-onkoste.

of distribution was submitted to the Master in terms of section *ninety-one*, and the expenses of the funeral of the insolvent's wife or minor child, if those expenses were incurred within the period of three months immediately preceding the sequestration of the insolvent's estate, but the amount payable under this sub-section shall not exceed twenty-five pounds in all.

(2) Thereafter any balance of the free residue shall be applied in defraying the death-bed expenses of the insolvent if they were incurred before the trustee's first plan of distribution was submitted to the Master in terms of section *ninety-one* and the death-bed expenses of the debtor's wife or minor child, if those expenses were incurred within the period of three months immediately preceding the sequestration of the insolvent's estate, but the amount payable under this sub-section shall not exceed twenty-five pounds in all.

(3) In sub-section (2) "death-bed expenses" means expenses incurred for medical attendance, nursing, medicines and medical necessaries, and claims for those expenses shall rank *pari passu* and abate in equal proportion, if necessary.

(4) If the free residue of the estate is insufficient to defray the expenses mentioned in sub-sections (1) and (2), the deficiency shall be defrayed out of the proceeds of any other assets of the estate in proportion to their value.

Cost of sequestration.

97. (1) Thereafter any balance of the free residue shall be applied in defraying the costs of the sequestration of the estate in question with the exception of the costs mentioned in sub-section (1) of section *eighty-nine*.

(2) The costs of the sequestration shall rank according to the following order of priority—

- (a) The sheriff's charges incurred since the sequestration ;
- (b) fees payable to the Master in connection with the sequestration ;
- (c) the following costs which shall rank *pari passu* and abate in equal proportions if necessary, that is to say : the taxed costs of sequestration (as defined in sub-section (3)), the fee mentioned in sub-section (4) of section *sixteen*, the remuneration of the *curator bonis* and of the trustee and all other costs of administration and liquidation including such costs incurred by the trustee in giving security for his proper administration of the estate as the Master considers reasonable, in so far as they are not payable by a particular creditor in terms of sub-section (1) of section *eighty-nine*, any expenses incurred by the Master or by a presiding officer in terms of sub-section (2) of section *one hundred and fifty-three* and the salary or wages of any person who was engaged by the *curator bonis* or the trustee in connection with the administration of the insolvent estate.

(3) In paragraph (c) of sub-section (2) the expression "taxed costs of sequestration" means the costs (as taxed by the registrar of the Court) incurred in connection with the petition of the debtor for acceptance of the surrender of his estate or of a creditor for the sequestration of the debtor's estate, but it does not include the costs of opposition to such a petition, unless the Court directs that they shall be included.

Costs of execution.

98. (1) Thereafter any balance of the free residue shall be applied in defraying—

- (a) the taxed fees of the sheriff or messenger in connection with any execution upon any property of the insolvent and in connection with any proceedings which resulted in that execution ; and
- (b) any other taxed costs in those proceedings not exceeding a sum of five pounds,

to a total amount not exceeding the proceeds of that property if that property was still under attachment or if the proceeds of the sale in execution of that property were still in the hands of the sheriff or messenger at the time of the sequestration of the insolvent's estate.

(2) The attachment of any property in execution of any judgment shall, after the sequestration of the estate of the judgment debtor, not have the effect of conferring upon the judgment creditor any other preference than the preference provided for in sub-section (1).

Compensation under the Workmen's Compensation Act, 1934.

99. Thereafter any balance of the free residue shall be applied in defraying any compensation which the estate owes to a workman or to any dependent of a workman under

kurator se eerste distribusierekening volgens artikel *een-en-negentig* aan die Meester voorgelê is, en van die koste van die begrafnis van die insolvent se vrou of minderjarige kind, as daardie koste gemaak is binne die tydperk van drie maande onmiddellik voor die sekwestrasie van die insolvent se boedel; dog nie meer as 'n totaalbedrag van vyf-en-twintig pond mag ingevolge hierdie sub-artikel uitbetaal word nie.

(2) Daarna word die orige van die vrye oorskot aangewend tot dekking van die sterfbed-onkoste van die insolvent, as hulle gemaak is voordat die kurator se eerste distribusierekening volgens artikel *een-en-negentig* aan die Meester voorgelê is, en van die sterfbed-onkoste van die insolvent se vrou of minderjarige kind, as daardie onkoste gemaak is binne die tydperk van drie maande onmiddellik voor die sekwestrasie van die insolvent se boedel; dog nie meer as 'n totaalbedrag van vyf-en-twintig pond mag ingevolge hierdie sub-artikel uitbetaal word nie.

(3) In sub-artikel (2) beteken „sterfbed-onkoste” die onkoste gemaak vir geneeskundige behandeling, verpleging, geneesmiddels en geneeskundige benodighede. Vorderings vir daardie onkoste word gelykop gerangskik en word, indien nodig, eweredig gekort.

(4) As die vrye oorskot van die boedel onvoldoende is tot dekking van die koste vermeld in sub-artikels (1) en (2), dan word die tekort gedek uit die oprings van die ander bate van die boedel na eweredigheid van hulle waarde.

97. (1) Daarna word die orige van die vrye oorskot aangewend tot dekking van die koste van die sekwestrasie van die betrokke boedel, met uitsondering van die koste bedoel in sub-artikel (1) van artikel *negen-en-tagtig*.

Sekwestrasiekoste.

(2) Die sekwestrasiekoste word gerangskik volgens onderstaande rangorde:

- (a) Die balju se koste wat sedert die sekwestrasie gemaak is;
- (b) die leges wat in verband met die sekwestrasie aan die Meester verskuldig is;
- (c) die volgende onkoste wat gelykop gerangskik en, indien nodig, eweredig gekort word, naamlik: die getakseerde sekwestrasiekoste (soas omskrewen in sub-artikel (3)), die fooi in sub-artikel (4) van artikel *sestien* bedoel, die vergoeding van die *curator bonis* en van die kurator en alle ander koste van beheer en likwidasie, met inbegrip van die koste van die sekuriteit deur die kurator gestel vir sy behoorlike bereddering van die boedel, vir sover as wat die Meester daardie koste redelik ag en hulle nie deur 'n bepaalde skuldeiser volgens sub-artikel (1) van artikel *negen-en-tagtig* gedra moet word nie, alle onkoste wat die Meester of 'n voorsittende amptenaar kragtens sub-artikel (2) van artikel *honderd-drie-en-vyftig* gemaak het en die salaris of loon van iemand wat die *curator bonis* of die kurator in diens geneem het in verband met die bereddering van die insolvente boedel.

(3) In paragraaf (c) van sub-artikel (2) beteken die uitdrukking „getakseerde sekwestrasiekoste” die koste (soas getakseer deur die griffier van die hof) gemaak in verband met die petisie van die skuldenaar om aanneme van die oorgawe van sy boedel of van 'n skuldeiser om sekwestrasie van die skuldenaar se boedel, dog sluit nie in die koste van verset teen so 'n petisie nie tensy die hof gelas dat hulle ingesluit moet word.

98. (1) Daarna word die orige van die vrye oorskot aangewend tot dekking van—

Koste van eksekusie.

- (a) die getakseerde fooie van die balju of geregsbode in verband met 'n eksekutoriale beslaglegging op goed van die insolvent en in verband met 'n regsgeeding wat daardie eksekutoriale beslaglegging ten gevolge gehad het; en
- (b) ander getakseerde koste insake daardie regsgeeding, van nie meer as 'n som van vyf pond nie;

tot 'n totale bedrag van nie meer as die oprings van daardie goed nie, as daardie goed nog onder beslaglegging was of as die oprings van die eksekutoriale verkoping van daardie goed nog in hande van die balju of geregsbode was toe die insolvent se boedel gesekwestreer is.

(2) Die beslaglegging op goed tot tenuitvoerlegging van 'n vonnis, verleen na die sekwestrasie van die boedel van die vonnis-skuldenaar geen ander preferensie aan die vonnis-skuldeiser nie as die preferensie bedoel in sub-artikel (1).

99. Daarna word die orige van die vrye oorskot aangewend tot dekking van die skadeloosstelling wat die boedel ingevolge die Werksmense Skadeloosstelling Wet, 1934 (Wet No. 59

Skadeloosstelling ingevolge Werksmense Skadeloosstelling-wet, 1934.

the Workmen's Compensation Act, 1934 (Act No. 59 of 1934).

Salary or wages of former employees of insolvent.

100. (1) Thereafter any balance of the free residue shall be applied in paying the salary or wages, for a period not exceeding two months prior to the date of sequestration of the estate, due to an employee who was engaged by the month by the insolvent and the salary or wages, for a period not exceeding two weeks prior to the date of sequestration of the estate, due to an employee who was engaged by the week by the insolvent: Provided that in either case no salary or wages shall be paid under this sub-section to any employee for service rendered by him more than three months before the sequestration of his employer's estate; and provided further that not more than fifty pounds shall be paid out under this section to any one employee.

(2) If on the date of sequestration any leave is due to any such employee he shall also be entitled to salary or wages in respect of any period, not exceeding fourteen days, of leave due to him.

(3) An employee shall be entitled to salary or wages in terms of sub-section (1) or (2) even though he has not proved his claim therefor in terms of section *forty-four*; but the trustee may require such employee to submit an affidavit in support of his claim for such salary or wages.

Preference in regard to income tax.

101. Thereafter any balance of the free residue shall be applied in paying any sum for which the insolvent may have become liable under the law relating to income tax and which was payable before the date of the sequestration of his estate.

Preference under a general bond.

102. Thereafter any balance of the free residue shall be applied in the payment of any claims proved against the estate in question which were secured by a general mortgage bond, in their order of preference, with interest thereon calculated in manner provided in sub-section (2) of section *one hundred and three*.

Non-preferent claims.

103. (1) Any balance of the free residue after making provision for the expenditure mentioned in sections *ninety-six* to *one hundred and two* inclusive, shall be applied—

- (a) in the payment of the unsecured or otherwise non-preferent claims proved against the estate in question in proportion to the amount of each such claim;
- (b) if the unsecured or otherwise non-preferent claims have been paid in full, in the payment, thereafter, of interest on such claims from the date of sequestration to the date of payment, in proportion to the amount of each such claim.

(2) The interest mentioned in sub-section (1) shall be calculated at the rate of six per cent. per annum, unless the amount of any claim bears a higher rate of interest by virtue of a lawful stipulation in writing, when the interest on that amount shall be calculated at the stipulated rate of interest.

Late proof of claims.

104. (1) Subject to the provisions of sub-section (2) of section *ninety-five* and sub-section (3) of section *one hundred*, a creditor of an insolvent estate who has not proved a claim against that estate before the date upon which the trustee of that estate submitted to the Master a plan of distribution in that estate, shall not be entitled to share in the distribution of assets brought up for distribution in that plan: Provided that the Master may, at any time before the confirmation of the said plan permit any such creditor who has proved his claim after the said date to share in the distribution of the said assets, if the Master is satisfied that the creditor has a reasonable excuse for the delay in proving his claim.

(2) A creditor of an insolvent estate who proved a claim against that estate after the date upon which the trustee submitted to the Master a plan of distribution in that estate and who was not permitted to share in the distribution of assets under that plan, in terms of sub-section (1), shall be entitled to be awarded under any further plan of distribution submitted to the Master after the proof of his claim, the amount which would have been awarded to him under the previous plan of distribution, if he had proved his claim prior to the submission of that plan to the Master: Provided that the Master is satisfied that the creditor had a reasonable excuse for the delay in proving his claim; and provided further that any creditor who was aware that proceedings had been instituted under section *twenty-six*, *twenty-nine*, *thirty* or *thirty-one* and who

van 1934), skuld aan 'n werksman of aan 'n nabestaande van 'n werksman.

100. (1) Daarna word die orige van die vrye oorskot aangewend tot betaling van die salaris of loon, vir 'n tydperk van nie meer as twee maande nie voor die sekwestrasie van die boedel, verskuldig aan 'n werknemer wat die insolvent by die maand gehuur het en die salaris of loon, vir 'n tydperk van nie meer as twee weke voor die sekwestrasie van die boedel, verskuldig aan 'n werknemer wat die insolvent by die week gehuur het: Met dien verstande dat in die een sowel as in die ander geval geen salaris of loon ingevolge hierdie sub-artikel aan 'n werknemer betaal word nie vir dienste wat hy meer as drie maande voor die sekwestrasie van die werknemer se boedel bewys het; en met dien verstande, voorts, dat nie meer as vyftig pond ingevolge hierdie artikel aan een werknemer uitbetaal word nie.

Salaris of loon van gewese werknemers van insolvent.

(2) As daar op die dag van die sekwestrasie aan so 'n werknemer verlof toekom, dan is hy ook geregtig op salaris of loon vir 'n tydperk van nie meer as veertien dae van die verlof wat aan hom toekom.

(3) 'n Werknemer is geregtig op salaris of loon volgens sub-artikel (1) of (2), alhoewel hy nie sy vordering daarvan volgens artikel vier-en-veertig bewys het nie; dog die kurator kan van so 'n werknemer verlang dat hy 'n beëdigde verklaring tot staving van sy vordering vir daardie salaris of loon moet oorlê.

101. Daarna word die orige van die vrye oorskot aangewend tot betaling van 'n bedrag waarvoor die insolvent kragtens die wet op inkomstebelasting aanspreeklik mag geword het en wat invorderbaar was voor die dag van die sekwestrasie van sy boedel.

Voorrang ten opsigte van inkomstebelasting.

102. Daarna word die orige van die vrye oorskot aangewend tot betaling van vorderings wat teen die betrokke boedel bewys is en wat deur 'n algemene verband verseker was, en wel volgens hulle rangorde, met rente daarop bereken volgens voorskrif van sub-artikel (2) van artikel honderd-en-drie.

Voorrang onder 'n algemene verband.

103. (1) Wat van die vrye oorskot oorbly nadat voorsiening gemaak is vir die uitgawe vermeld in artikels ses-en-negentig tot en met honderd-en-twee word aangewend—

Nie-preferente vorderings.

(a) tot betaling van die onversekerde of andersins nie-preferente vorderings wat teen die betrokke boedel bewys is na eweredigheid van die bedrag van elke sodanige vordering;

(b) as die onversekerde of andersins nie-preferente vorderings ten volle uitbetaal is, tot betaling daarna van rente op daardie vorderings vanaf die dag van die sekwestrasie tot die dag van betaling, na eweredigheid van die bedrag van elke sodanige vordering.

(2) Die rente bedoel in sub-artikel (1) word bereken teen ses persent per jaar, tensy die bedrag van 'n vordering uit kragte van 'n wettige skriftelike beding 'n hoër rente dra, wanneer die rente op daardie bedrag volgens die bedonge rentekoers bereken word.

104. (1) Behoudens die bepalinge van sub-artikel (2) van artikel vyf-en-negentig en sub-artikel (3) van artikel honderd, is 'n skuldeiser van 'n insolvente boedel wat nie voor die dag waarop die kurator van daardie boedel aan die Meester 'n distribusierekening in daardie boedel voorgelê het, 'n vordering teen daardie boedel bewys het nie, nie geregtig om te deel in die bate wat in daardie rekening ter verdeling aangegee word nie: Met dien verstande dat die Meester te eniger tyd voor die bekragtiging van bedoelde rekening aan so 'n skuldeiser wat sy vordering na bedoelde dag bewys het, kan toestaan om in daardie bate te deel as die Meester oortuig is dat die skuldeiser 'n redelike verontskuldiging het vir die vertraging van die bewys van sy vordering.

Vertraagde bewys van vorderings.

(2) 'n Skuldeiser van 'n insolvente boedel wat 'n vordering teen daardie boedel bewys het na die dag waarop die kurator 'n distribusierekening in daardie boedel aan die Meester voorgelê het en aan wie nie kragtens sub-artikel (1) toegestaan is om op grond van daardie rekening in die bate te deel nie, is geregtig op toekening, op grond van 'n verdere distribusierekening wat na die bewys van sy vordering aan die Meester voorgelê word, van die bedrag wat op grond van die vorige distribusierekening aan hom toegeken sou geword het, as hy sy vordering bewys het voordat daardie rekening aan die Meester voorgelê was, mits die Meester van oordeel is dat die skuldeiser 'n redelike verontskuldiging had vir die vertraging van die bewys van sy vordering: Met dien verstande dat 'n skuldeiser wat geweet het dat kragtens artikel ses-en-twintig, negen-en-twintig, dertig, of een-en-dertig 'n geding ingestel was en wat die bewys van

delayed proving his claim until the Court had given judgment in those proceedings, shall not be entitled to share in the distribution of any money or the proceeds of any property recovered as a result of such proceedings.

(3) If any creditor has, under sub-section (1) of section *thirty-two* taken proceedings to set aside any disposition of or dealing with property under section *twenty-six*, *twenty-nine*, *thirty* or *thirty-one* or for the recovery of damages or a penalty under section *thirty-one*, no creditor who was not a party to the proceedings shall derive any benefit from any moneys or from the proceeds of any property recovered as a result of such proceedings before the claim and costs of every creditor who was a party to such proceedings have been paid in full.

Form of plan of contribution.

105. A plan of contribution shall show in parallel columns—

(a) each claim in respect of which the claiming creditor is liable to contribute; and

(b) the amount which he is liable to contribute, and shall make provision for all such contributions in accordance with the provisions of section *one hundred and six*.

Contributions by creditors towards cost of sequestration when free residue insufficient.

106. Where there is no free residue in an insolvent estate or when the free residue is insufficient to meet all the expenses, costs and charges mentioned in sections *ninety-six* and *ninety-seven*, all creditors who have proved claims against the estate shall be liable to make good any deficiency, the non-preferent creditors each in proportion to the amount of his claim and the secured creditors each in proportion to the amount for which he would have ranked upon the surplus of the free residue, if there had been any: Provided that—

(a) if all the creditors who have proved claims against the estate are secured creditors who would not have ranked upon the surplus of the free residue, if there had been any, such creditors shall be liable to make good the whole of the deficiency, each in proportion to the amount of his claim;

(b) if a creditor has withdrawn his claim, he shall be liable to contribute in respect of any deficiency only so far as is provided in section *fifty-one*, and if a creditor has withdrawn his claim within five days after the date of any resolution of creditors he shall be deemed to have withdrawn the claim before anything was done in pursuance of that resolution;

(c) if all the creditors who would have ranked upon the surplus of the free residue, if there had been any, have withdrawn their claims and, after payment of their contribution in terms of paragraph (b) there is still a deficiency, the remaining creditors whose claims have been proved against the estate shall, notwithstanding the fact that they would not have ranked upon the surplus of the free residue, if there had been any, be liable to make good such deficiency, each in proportion to the amount of his claim.

Trustee's account to be signed and verified.

107. A trustee shall sign every account which he submits to the Master and he shall verify by his affidavit (which shall be free from stamp duty) that the account is a full and true account of the administration of the estate in question up to the date of the account and that, so far as he is aware, all the assets of the estate have been disclosed in the account.

Inspection of trustee's accounts by creditors.

108. (1) If an insolvent resided or carried on business, before the sequestration of his estate, in a district (other than the district of Wynberg, Simonstown or Bellville in the Province of the Cape of Good Hope) in which there is no Master's office, the trustee of that estate shall transmit to the magistrate of that district a duplicate of every account which he submitted to the Master as hereinbefore provided.

(2) When a trustee has submitted an account to the Master, he shall give notice of that fact in the *Gazette* and shall state in that notice the place or places where and the period during which the account will lie open for inspection by the creditors of the estate in question. He shall also post or deliver a similar notice to every creditor who has proved a claim against the estate.

(3) Every such account and every duplicate thereof transmitted to a magistrate shall be open for the inspection by creditors of the estate in question at the office of the Master

sy vordering agterweë gehou het totdat die hof in daardie geding vonnis gevel het, nie geregtig is om te deel in geld of die oprings van goed wat as gevolg van daardie geding verkry is nie.

(3) As 'n skuldeiser kragtens sub-artikel (1) van artikel twee-en-dertig 'n geding ingestel het om kragtens artikel ses-en-twintig, negen-en-twintig, dertig of een-en-dertig die vervreemding van goed tot niet te maak of om kragtens artikel een-en-dertig skadevergoeding of 'n boete in te vorder, dan kan 'n skuldeiser wat nie aan daardie geding deelgeneem het nie, geen voordeel trek uit geld of die oprings van goed wat as gevolg van daardie geding verkry is nie voordat die vordering en koste van elke skuldeiser wat aan bedoelde geding deelgeneem het, ten volle betaal is.

105. 'n Kontribusierekening moet aangee in ewewydige kolomme—

Vorm van
kontribusierekening.

(a) elke vordering ten opsigte waarvan die vorderende skuldeiser kontribusiepligtig is; en

(b) die bedrag wat hy moet inbetaal,

en moet vir alle sodanige inbetalings voorsiening maak volgens die bepalinge van artikel honderd-en-ses.

106. Wanneer daar geen vrye oorskot in 'n insolvente boedel is nie of wanneer die vrye oorskot onvoldoende is om al die koste en onkoste bedoel in artikels ses-en-negentig en sewe-en-negentig te dek, is alle skuldeisers wat vorderings teen die boedel bewys het verplig om die tekort te dek, en wel die niepreferente skuldeisers elkeen na eweredigheid van die bedrag van sy vordering en die versekerde skuldeisers elkeen na eweredigheid van die bedrag waarvoor hy by die verdeling van die surplus van die vrye oorskot in aanmerking sou gekom het, as daar so 'n surplus gewees het: Met dien verstande dat—

Bydrae deur
skuldeisers tot
sekwestrasielaste
wanneer vrye
oorskot
onvoldoende is.

(a) as al die skuldeisers wat vorderings teen die boedel bewys het, versekerde skuldeisers is wat nie by die verdeling van die vrye oorskot in aanmerking sou gekom het nie, as daar 'n vrye oorskot gewees het, daardie skuldeisers verplig is om die hele tekort te dek, en wel elkeen na eweredigheid van sy vordering;

(b) as 'n skuldeiser sy vordering teruggetrek het, hy kontribusiepligtig is ten opsigte van 'n tekort slegs vir sover as wat artikel een-en-veertig bepaal; en as 'n skuldeiser sy vordering teruggetrek het binne vyf dae na die dag van 'n besluit van skuldeisers, gehandel word asof hy sy vordering teruggetrek het voordat iets ingevolge daardie besluit gedaan is;

(c) as al die skuldeisers wat in aanmerking sou gekom het by die verdeling van die surplus van die vrye oorskot, as daar so 'n surplus gewees het, hulle vorderings teruggetrek het en daar na betaling van hulle kontribusie volgens paragraaf (b) nog 'n tekort is, die orige skuldeisers, wie se vorderings teen die boedel bewys is, verplig is om die tekort te dek, en wel elkeen na eweredigheid van die bedrag van sy vordering, alhoewel hulle nie by die verdeling van die surplus van die vrye oorskot in aanmerking sou gekom het nie, as daar so 'n surplus gewees het.

107. 'n Kurator moet elke rekening wat hy aan die Meester voorlê onderteken en hy moet deur sy beëdigde verklaring (wat vry van seëlreg is) bevestig dat die rekening 'n volledige en juiste rekening is van die bereddering van die betrokke boedel tot op die dagtekening van die rekening en dat vir sover as wat hy weet, al die bate van die boedel in die rekening aangegee is.

Kurator se
rekenings moet
onderteken en
beëdig wees.

108. (1) As 'n insolvent voor die sekwestrasie van sy boedel gewoon of besigheid gedryf het in 'n ander distrik as die distrik Wynberg, Simonstad of Bellville in die Provinsie Kaap die Goeie Hoop, waarin daar geen Meesterskantoor is nie, dan moet die kurator van daardie boedel aan die magistraat van daardie distrik 'n duplikaat stuur van elke rekening wat hy volgens voorgaande bepalinge aan die Meester voorgelê het.

Insage van
kurator se
rekenings deur
skuldeisers.

(2) Wanneer 'n kurator 'n rekening aan die Meester voorgelê het, moet hy van daardie feit in die Staatskoerant kennis gee en moet hy in daardie kennisgewing bekendmaak op watter plek of plekke en hoelank die rekening ter insage van die skuldeisers van die betrokke boedel sal lê. Hy moet ook 'n dergelyke kennisgewing aan elke skuldeiser wat 'n vordering teen die boedel bewys het, oor die pos stuur of oorhandig.

(3) Elke sodanige rekening en elke aan 'n magistraat gestuurde duplikaat daarvan moet gedurende 'n tydperk van veertien dae vanaf die publikasie van voormelde kennisgewing in

and of such magistrate during a period of fourteen days as from the date of publication of the said notice in the *Gazette*.

(4) A magistrate who has received a trustee's account shall cause to be affixed in a public place in or about his office a notice that he has received the account and that it will lie open for inspection in his office during a period stated in that notice.

(5) After the expiration of the said period the magistrate shall endorse upon the account a certificate (which shall be free from stamp duty) that the account was open in his office for inspection as hereinbefore provided, and shall transmit the account to the Master.

Extension of time for submitting trustee's account.

109. (1) If a trustee is unable to submit an account to the Master within the period prescribed therefor by section *ninety-one*, he may give notice in the *Gazette* of his intention to apply to the Master for an extension of that period.

(2) After the expiration of a period of fourteen days as from the publication of the said notice he may apply to the Master in writing for an extension of the first-mentioned period, and if he adduces reasons which are in the Master's opinion sufficient to justify such an extension, the Master may grant him such an extension as the Master thinks reasonable in the circumstances of the case.

(3) If the Master refuses the application, the trustee may apply by motion to the Court (after having given the Master notice of his intention to make the application) for an order extending the said period and the Court may thereupon make such order as it thinks fit.

Compelling trustee to submit accounts.

110. (1) If a trustee has funds in hand which, in the opinion of the Master, ought to be distributed among the creditors of the estate in question and the trustee has not submitted to the Master a plan for the distribution of those funds, the Master may direct him in writing to submit to him a plan for the distribution of those funds, although the period prescribed in section *ninety-one* may not have elapsed.

(2) If a trustee has failed to submit an account to the Master within the period and in the manner hereinbefore prescribed, the Master may direct the trustee in writing to submit his account.

(3) If, after the expiration of a period of fourteen days as from the receipt of a direction issued under sub-section (1) or (2) the trustee has failed to comply satisfactorily with that direction, the Master may apply by motion to the Court (after having given the trustee notice of his intention to make the application) for an order compelling the trustee to submit the account in question to the Master, and the Court may thereupon make such order as it thinks fit.

Objections to trustee's account.

111. (1) The insolvent or any person interested in the estate may, at any time before the confirmation of the trustee's account, in terms of section *one hundred and twelve*, lay before the Master in writing any objection, with the reasons therefor, to that account.

(2) If the Master is of the opinion that any such objection is well founded or if, apart from any objection, he is of the opinion that the account is in any respect incorrect or contains any improper charge and should be amended, he may direct the trustee to amend the account or may give such other directions in connection therewith as he may think fit: Provided that—

(a) any person aggrieved by any such direction of the Master or by the refusal of the Master to sustain an objection so lodged, may apply by motion to the Court within fourteen days as from the date of the Master's direction, or as from the date of intimation to the objector of the Master's refusal to sustain his objection, after notice to the trustee, for an order to set aside the Master's decision and the Court may thereupon confirm the account or make such order as it thinks fit; and

(b) when any such direction affects the interests of a person who has not lodged an objection with the Master, the account so amended shall again lie open for inspection by the creditors in the manner and with the notice hereinbefore prescribed, unless the person affected as aforesaid consents in writing to the immediate confirmation of the account.

die *Staatskoerant*, ter insage van die skuldeisers van die betrokke boedel lê op die kantoor van die Meester en van bedoelde magistraat.

(4) 'n Magistraat wat 'n kuratorsrekening ontvang het, moet op 'n openbare plek in of by sy kantoor 'n kennisgewing laat aanheg, waarin hy vermeld dat hy die rekening ontvang het en dat dit op sy kantoor ter insage sal lê gedurende 'n tydperk in daardie kennisgewing aangegee.

(5) Na verloop van bedoelde tydperk moet die magistraat op die rekening 'n sertifikaat (wat vry van seëlreg is) aanteken dat die rekening volgens voorgaande bepalings op sy kantoor ter insage gelê het en die rekening aan die Meester stuur.

109. (1) As 'n kurator nie in staat is om 'n rekening aan die Meester voor te lê nie binne die termyn wat artikel *een-en-negentig* daarvoor voorskryf, dan kan hy in die *Staatskoerant* kennis gee van sy voorneme om by die Meester aansoek te doen om verlenging van daardie termyn.

Verlenging van termyn vir indiening van kuratorsrekening.

(2) Na afloop van 'n termyn van veertien dae vanaf die publikasie van bedoelde kennisgewing, kan hy by die Meester skriftelik aansoek doen om verlenging van eersbedoelde termyn en as hy redes aanvoer wat volgens die Meester se oordeel voldoende is om so 'n verlenging te regverdig, kan die Meester hom so 'n verlenging toestaan as wat die Meester onder die omstandighede van die geval redelik ag.

(3) As die Meester die aansoek weier, kan die kurator die hof by wyse van mosie versoek (nadat hy aan die Meester kennis gegee het van sy voorneme om die versoek te maak) om 'n order tot verlenging van bedoelde termyn en die hof kan daarop so 'n order uitvaardig as wat hy wenslik ag.

110. (1) As 'n kurator gelde in hande het wat volgens die Meester se oordeel onder die skuldeisers van die betrokke boedel behoort verdeel te word en die kurator het nie 'n distribusierekening tot verdeling van daardie gelde aan die Meester voorgelê nie, dan kan die Meester hom skriftelik beveel om 'n distribusierekening tot verdeling van daardie gelde voor te lê, alhoewel die termyn wat artikel *een-en-negentig* voorskryf, nog nie verstryk het nie.

Verpligting van kurator om rekenings voor te lê.

(2) As 'n kurator in gebreke gebly het om binne die termyn en op die wyse in die voorgaande bepaal, 'n rekening aan die Meester voor te lê, dan kan die Meester die kurator skriftelik beveel om sy rekening voor te lê.

(3) As 'n kurator na verloop van 'n termyn van veertien dae vanaf die ontvangs van 'n kragtens sub-artikel (1) of (2) uitgevaardigde bevel in gebreke gebly het om op bevredigende wyse aan daardie bevel te voldoen, dan kan die Meester die hof by wyse van mosie versoek (nadat hy aan die kurator kennis gegee het van sy voorneme om die versoek te maak) om 'n order wat die kurator verplig om die betrokke rekening aan die Meester voor te lê en die hof kan daarop so 'n order uitvaardig as wat hy wenslik ag.

111. (1) Die insolvent of iemand wat by die boedel belang het, kan te eniger tyd voor die bekragtiging van die kuratorsrekening volgens artikel *honderd-en-twaalf*, aan die Meester 'n met redes omklede skriftelike beswaar teen daardie rekening voorlê.

Besware teen kuratorsrekening.

(2) As die Meester van oordeel is dat so 'n beswaar gegrond is of as hy, afgesien van enige beswaar, van oordeel is dat die rekening in een of ander opsig onjuis is of 'n onbehoorlike bedrag in rekening bring en gewysig behoort te word, dan kan hy die kurator beveel om die rekening te wysig of kan sulke ander bevels in verband daarmee gee as wat hy wenslik ag: Met dien verstande dat—

- (a) iemand wat hom verongelyk ag deur so 'n bevel van die Meester of deur die Meester se weiering om aan 'n aldus ingediende beswaar gevolg te gee, binne veertien dae vanaf die dag van die Meester se bevel of vanaf die dag waarop aan die beswaarmaker meege-deel is dat die Meester weier om aan sy beswaar gevolg te gee, die hof by wyse van mosie kan versoek (na kennisgewing aan die kurator) om 'n order waar-deur die Meester se beslissing tot niet gemaak word en die hof daarop die rekening kan bekragtig of so 'n order kan uitvaardig as wat hy wenslik ag; en
- (b) wanneer so 'n bevel die belange aantast van iemand wat nie 'n beswaar by die Meester ingedien het nie, die aldus gewysigde rekening weer ter insage van die skuldeisers moet lê op die wyse en na die kennis-gewing in die voorgaande vermeld, tensy voormelde betrokke persoon skriftelik toestem tot die onmiddellike bekragtiging van die rekening.

Confirmation of trustee's accounts.

112. When a trustee's account has been open to inspection by creditors as hereinbefore prescribed and—

- (a) no objection has been lodged; or
- (b) an objection has been lodged and the account has been amended in accordance with the direction of the Master and has again been open for inspection if necessary as in paragraph (b) of sub-section (2) of section *one hundred and eleven* prescribed and no application has been made to the Court in terms of paragraph (a) of the said sub-section (2) to set aside the Master's decision; or
- (c) an objection has been lodged but withdrawn or has not been sustained and the objector has not applied to the Court in terms of the said paragraph (a),

the Master shall confirm the account and his confirmation shall be final save as against a person who may have been permitted by the Court before any dividend has been paid under the account, to reopen it.

Distribution of estate and collection of contributions from creditors.

113. (1) Immediately after the confirmation of a trustee's account, the trustee shall give notice of the confirmation in the *Gazette* and shall state in that notice, according to the circumstances, that a dividend to creditors is in course of payment or that a contribution is in course of collection from the creditors and that every creditor liable to contribute is required to pay to the trustee the amount for which he is so liable.

(2) If any contribution is payable, the trustee shall specify fully in that notice the address at which the payment of the contribution is to be made, and shall deliver or post a copy of the notice to every creditor liable to contribute.

(3) Immediately after the confirmation of a trustee's account the trustee shall in accordance therewith distribute the estate or collect from each creditor liable to contribute the amount for which he is liable.

Trustee to produce acquittances for dividends or to pay over unpaid dividends to Master.

114. (1) The trustee shall without delay lodge with the Master the receipts for dividends paid to creditors and if there is a contribution account the vouchers necessary to complete the account.

(2) If any such dividend has at the expiration of a period of two months as from the confirmation of the account under which it is payable, not been paid out to the creditor entitled thereto, the trustee shall immediately pay in the dividend to the Master who shall deposit it in the Guardians' Fund for account of the creditor.

(3) If, at the expiration of the said period of two months, the trustee has failed to furnish the Master with a proper receipt for any dividend which has not been paid in to the Master as aforesaid, the trustee shall *prima facie* be presumed to have retained such dividend and the Master may in that case apply to the Court by motion for an order compelling the trustee to produce proof that he paid the dividend in question to the creditor entitled thereto or to pay that dividend to the Master as aforesaid.

Application to Court for an order to pay dividend.

115. If a trustee has delayed payment of any dividend, the creditor entitled thereto may apply to the Court by motion for an order compelling the trustee to pay him that dividend.

Surplus to be paid into Guardians' Fund until rehabilitation of insolvent.

116. (1) If after the confirmation of a final plan of distribution there is any surplus in an insolvent estate which is not required for the payment of claims, costs, charges or interest, the trustee shall, immediately after the confirmation of that account, pay that surplus over to the Master, who shall deposit it in the Guardians' Fund and after the rehabilitation of the insolvent shall pay it out to him at his request.

(2) If the trustee has failed so to pay over the said surplus the Master or the insolvent may apply to the Court by motion for an order to compel the trustee to comply with sub-section (1).

Enforcement of order of Court.

117. (1) If a trustee has failed to comply with any order of the Court made under section *one hundred and fourteen, one hundred and fifteen* or *one hundred and sixteen* the Court may direct that any sum of money which that trustee was ordered to pay be recovered by attachment and sale of the goods of the trustee and may further commit him to prison for contempt of the Court.

(2) If the Court has ordered a trustee to pay out of his own means the costs of any proceedings instituted under any provision of this Act, and the person in whose favour the order

112. Wanneer 'n kuratorsrekening ter insage van skuldeisers gelê het, soas in die voorgaande bepaal, en—

- (a) geen beswaar ingedien is nie; of
 (b) 'n beswaar ingedien is en die rekening volgens die Meester se bevel gewysig is en indien nodig volgens voorskrif van paragraaf (b) van sub-artikel (2) van artikel *honderd-en-elf* weer ter insage gelê het en die hof nie volgens paragraaf (a) van bedoelde sub-artikel (2) versoek is nie om die Meester se beslissing tot niet te maak; of
 (c) 'n beswaar wel ingedien maar teruggetrek is of daaraan geen gevolg gegee is nie en die beswaarmaker nie volgens bedoelde paragraaf (a) by die hof 'n versoek ingedien het nie,

Bekragtiging van kuratorsrekenings.

dan moet die Meester die rekening bekragtig en is sy bekragtiging afdoende, behalwe teenoor iemand aan wie die hof voordat ingevolge die rekening 'n diwidend uitbetaal is, mag toegestaan het om die rekening te heropen.

113. (1) Onmiddellik na die bekragtiging van 'n kuratorsrekening moet die kurator van die bekragtiging in die *Staatskoerant* kennis gee en na gelang van die omstandighede in die kennisgewing vermeld dat die uitbetaling van 'n diwidend aan skuldeisers of die insameling van 'n kontribusie van die skuldeisers aan die gang is en dat elke kontribusiepligtige skuldeiser aan die kurator die bedrag waarvoor hy aanspreeklik is, moet inbetaal.

Verdeling van boedel en insameling van kontribusies van skuldeisers.

(2) As 'n kontribusie verskuldig is, moet die kurator in daardie kennisgewing die adres waar die inbetaling van die kontribusie moet geskied, volledig aangee en 'n afskrif van die kennisgewing aan elke kontribusiepligtige skuldeiser oorhandig of oor die pos stuur.

(3) Onmiddellik na die bekragtiging van 'n kuratorsrekening moet die kurator in ooreenstemming daarmee die boedel verdeel of van elke kontribusiepligtige skuldeiser die bedrag waarvoor hy aanspreeklik is, insamel.

114. (1) Die kurator moet onverwyld die kwitansies vir diwidende wat aan skuldeisers uitbetaal is, en as daar 'n kontribusierekening is, die bewysstukke wat nodig is om die rekening te voltooi, by die Meester indien.

Kurator moet kwitansies vir diwidende oorleë of onbetaalde diwidende aan Meester uitbetaal.

(2) As so 'n diwidend by die verstryking van 'n tydperk van twee maande vanaf die bekragtiging van die rekening ingevolge waarvan dit verskuldig is, nie uitbetaal is nie aan die skuldeiser wat daarop geregtig is, dan moet die kurator die diwidend onmiddellik inbetaal aan die Meester, wat dit op rekening van die skuldeiser in die voogdyfonds moet stort.

(3) As die kurator by die verstryking van bedoelde tydperk van twee maande in gebreke gebly het om aan die Meester 'n behoorlike kwitansie te verstrek vir 'n diwidend wat nie soas voormeld aan die Meester inbetaal is nie, dan word *prima facie* vermoed dat die kurator die diwidend agtergehou het en die Meester kan in daardie geval die hof by wyse van 'n mosie versoek om 'n order wat die kurator verplig om die bewys te lewer dat hy die betrokke diwidend aan die skuldeiser wat daarop geregtig is, uitbetaal het of om daardie diwidend soas voormeld aan die Meester in te betaal.

115. As 'n kurator die uitbetaling van 'n diwidend vertraag het, kan die skuldeiser wat daarop geregtig is die hof by wyse van 'n mosie versoek om 'n order tot verpligting van die kurator om hom daardie diwidend uit te betaal.

Versoek aan hof om order tot betaling van diwidend.

116. (1) As daar na die bekragtiging van 'n finale distribusierekening 'n oorskot in 'n insolvente boedel is wat nie benodig is tot betaling van vorderings, koste, onkoste of rente nie, dan moet die kurator onmiddellik na die bekragtiging van daardie rekening daardie oorskot inbetaal aan die Meester, wat dit in die voogdyfonds moet stort en dit na die rehabilitasie van die insolvent aan hom op sy versoek moet uitbetaal.

Oorskot moet in voogdyfonds gestort word tot rehabilitasie van insolvent.

(2) As die kurator in gebreke gebly het om bedoelde oorskot aldus in te betaal, dan kan die Meester of die insolvent die hof by wyse van 'n mosie versoek om 'n order tot verpligting van die kurator om aan sub-artikel (1) te voldoen.

117. (1) As 'n kurator in gebreke gebly het om te voldoen aan 'n order van die hof wat kragtens artikel *honderden-veertien*, *honderd-en-vyftien* of *honderd-en-estien* uitgevaardig is, dan kan die hof gelas dat een of ander geldsom tot betaling waarvan daardie kurator veroordeel geword is, verhaal moet word deur inbeslagneming en verkoop van die goedere van die kurator en kan hom buitendien weens minagting van die hof na die gevangenis verwys.

Handhawing van order van hof.

(2) As die hof 'n kurator veroordeel het tot betaling, uit sy eie middele, van die koste van 'n kragtens een of ander bepaling van hierdie Wet ingestelde geding en die persoon

was made is unable to recover those costs from the trustee, those costs shall be paid as part of the costs of the sequestration out of any assets of the estate in question, which have not yet been distributed among the creditors.

Enforcing payment
of contributions.

118. (1) After the expiration of a period of thirty days as from the delivery or posting in a registered letter to any creditor of the notice mentioned in sub-section (2) of section *one hundred and thirteen*, the trustee may take out a writ of execution in the magistrate's court in which the creditor could be sued for the contribution in question against any such creditor who, being liable to contribute under the plan of contribution, has failed to pay the amount of his liability.

(2) Whenever a creditor liable to contribute under a plan of contribution is in the opinion of the Master and of the trustee unable to pay the contribution for which he is liable or whenever the trustee has incurred in connection with the recovery of any contribution any expenses which are in the opinion of the Master and of the trustee irrecoverable, the trustee shall as soon as practicable and in any event within such period as the Master may prescribe therefor, frame and submit to the Master a supplementary plan of contribution wherein he shall apportion the share of the creditor who is unable to pay or the expenses in question among the other creditors who are in the opinion of the Master and of the trustee able to pay.

(3) The provisions of sub-section (2) shall *mutatis mutandis* apply whenever a creditor liable to contribute under a first or further supplementary plan of distribution is, in the opinion of the Master and of the trustee, unable to pay the contribution for which he is liable, or whenever the trustee has incurred expenses in connection with the recovery of a contribution under a first or further supplementary plan of distribution which are, in the opinion of the Master and the trustee, irrecoverable by the trustee.

(4) A trustee may, in lieu of complying with the requirements of section *one hundred and eight* in connection with any supplementary plan of contribution, furnish a copy of that plan to every creditor liable to contribute thereunder and thereupon the provisions of sub-section (1) shall *mutatis mutandis* apply.

Composition.

119. (1) At any time after the first meeting of the creditors of an insolvent estate, the insolvent may submit to the trustee of his estate a written offer of composition.

(2) If the trustee is of the opinion that the creditors will probably accept the offer of composition, he shall as soon as possible after receipt of the offer post in a registered letter or deliver to every creditor who has proved his claim, a copy of the offer with his report thereon.

(3) If the trustee is of the opinion that there is no likelihood that the creditors will accept the offer of composition, he shall inform the insolvent that the offer is unacceptable and that he does not propose to send a copy thereof to the creditors.

(4) The insolvent may thereupon appeal to the Master who, after having considered a report from the trustee, may, if he considers the offer of composition sufficient for submission to the creditors, direct the trustee to post or deliver a copy of the offer to every creditor who has proved his claim.

(5) Whenever the trustee posts or delivers to the creditors a copy of an offer of composition in terms of the preceding provisions of this section, he shall simultaneously convene and give notice to the creditors of a meeting for the purpose of considering the said offer and any other matter mentioned in the notice.

(6) The said meeting shall be convened for a date not earlier than fourteen days and not later than twenty-eight days after the date upon which the said notice is posted or delivered to any creditor.

(7) If the offer of composition has been accepted by creditors whose votes amount to not less than three-fourths in value and three-fourths in number (calculated in accordance with the provisions of section *fifty-two*) of the votes of all the creditors who proved claims against the estate, and payment under the composition has been made or security for such payment has been given as specified in the composition or in terms

ten gunste van wie die oordeel gevel is, nie in staat is om daardie koste op die kurator te verhaal nie, dan word daardie koste as 'n deel van die koste van die sekwestrasie betaal uit bate van die betrokke boedel wat nog nie onder die skuldeisers verdeel is nie.

118. (1) Na verloop van 'n tydperk van dertig dae vanaf die oorhandiging of versending per pos (in 'n geregistreeerde brief) aan 'n skuldeiser van die kennisgewing bedoel in sub-artikel (2) van artikel *honderd-en-dertien*, kan die kurator in die magistraatshof waarin die skuldeiser vir die betrokke kontribusie aangespreek kon word, 'n eksekusielasbrief verkry teen so 'n skuldeiser wat ingevolge 'n kontribusierekening kontribusiepligtig is en in gebreke gebly het om die bedrag wat hy skuld te betaal.

Dwang tot
betaling van
kontribusies.

(2) Wanneer 'n skuldeiser wat ingevolge 'n kontribusierekening kontribusiepligtig is, volgens die oordeel van die Meester en van die kurator nie in staat is om die kontribusie waarvoor hy aanspreeklik is, te betaal nie, of wanneer die kurator in verband met die invordering van 'n kontribusie enige koste gemaak het wat volgens die oordeel van die Meester en van die kurator nie verhaal kan word nie, dan moet die kurator so gou doenlik en in elke geval binne die termyn wat die Meester daarvoor mag voorskrywe, 'n aanvullende kontribusierekening opstel en aan die Meester voorlê. Daarin moet hy die aandeel van die skuldeiser wat nie kan betaal nie of die betrokke onkoste omslaan oor die skuldeisers wat volgens die oordeel van die Meester en van die kurator wel in staat is om te betaal.

(3) Die bepaling van sub-artikel (2) is *mutatis mutandis* van toepassing wanneer 'n skuldeiser, wat ingevolge 'n eerste of verdere aanvullende kontribusierekening kontribusiepligtig is, volgens die oordeel van die Meester en van die kurator nie die kontribusie, waarvoor hy aanspreeklik is, kan betaal nie of wanneer die kurator in verband met die invordering van 'n kontribusie ingevolge 'n eerste of verdere kontribusierekening koste gemaak het wat volgens die oordeel van die Meester en van die kurator nie deur die kurator verhaal kan word nie.

(4) 'n Kurator kan, in plaas van te voldoen aan die vereistes van artikel *honderd-en-agt* in verband met 'n aanvullende kontribusierekening 'n afskrif van daardie rekening besorg aan elke skuldeiser wat ingevolge daarvan kontribusiepligtig is en daarop is die bepaling van sub-artikel (1) *mutatis mutandis* van toepassing.

119. (1) Te eniger tyd na die eerste byeenkoms van die skuldeisers van 'n insolvente boedel, kan die insolvent aan die kurator van sy boedel skriftelik 'n akkoord aanbied. Akkoord.

(2) As die kurator van oordeel is dat die skuldeisers waarskynlik die aanbod van 'n akkoord sal aanneem, moet hy so spoedig moontlik na ontvangs van die aanbod, 'n afskrif daarvan, met sy verslag daaromtrent, oorhandig of deur die pos in 'n geregistreeerde brief stuur aan elke skuldeiser wat sy vordering bewys het.

(3) As die kurator van oordeel is dat dit onwaarskynlik is dat die skuldeisers die aanbod van 'n akkoord sal aanneem, moet hy aan die insolvent meedeel dat die aanbod onaanneemlik is en dat hy nie voornemens is om 'n afskrif daarvan aan die skuldeisers te stuur nie.

(4) Die insolvent kan hom daarop beroep op die Meester wat, na oorweging van 'n verslag van die kurator, as hy die aanbod van 'n akkoord voldoende ag om aan die skuldeisers voorgelê te word, die kurator kan gelas om 'n afskrif van die aanbod te oorhandig of deur die pos te stuur aan elke skuldeiser wat sy vordering bewys het.

(5) Wanneer die kurator volgens die voorgaande bepaling van hierdie artikel 'n aanbod van 'n akkoord aan die skuldeisers oorhandig of deur die pos stuur, moet hy gelyktydig 'n byeenkoms belê en aan die skuldeisers daarvan kennis gee, ten einde bedoelde aanbod en enige ander saak wat in die kennisgewing vermeld word, te oorweeg.

(6) Bedoelde byeenkoms moet belê word op 'n dag nie eerder as veertien dae en nie later as agt-en-twintig dae na die dag waarop bedoelde kennisgewing aan een of ander skuldeiser oorhandig of deur die pos gestuur word.

(7) As die aanbod van 'n akkoord aangeneem is deur skuldeisers wie se stemme nie minder bedra as drie-vierdes volgens waarde en drie-vierdes volgens getal (bereken volgens die bepaling van artikel *twee-en-vyftig*) van die stemme van al die skuldeisers wat vorderings teen die boedel bewys het, en die betaling ingevolge die akkoord gedaan is of sekuriteit vir daardie betaling gestel is soos in die akkoord bepaal of

of sub-section (8), the insolvent shall be entitled to a certificate under the hand of the Master of the acceptance of the offer: Provided that no offer may be so accepted if it contains any condition whereby any creditor would obtain as against another creditor any benefit to which he would not have been entitled upon the distribution of the estate in the ordinary way; and provided further that any condition which makes the offer of composition or the fulfilment thereof or of any part thereof subject to the rehabilitation or to the consent of the creditors to the rehabilitation of the insolvent shall be of no effect, and provided also that if the composition provides for the giving of any security, the nature of that security shall be fully specified, and if it is to consist of a surety bond or guarantee, every surety shall be named.

(8) In sub-section (7) the word "creditor" includes a creditor who has not proved a claim against the insolvent estate in question.

Effect of composition.

120. (1) An offer of composition which has been accepted as aforesaid shall be binding upon the insolvent and upon all the creditors of the insolvent estate in so far as their claims are not secured or otherwise preferent but the right of any preferent creditor shall not be prejudiced thereby, except, in so far as he has expressly and in writing waived his preference.

(2) If it be a condition of the composition that any property in the insolvent estate shall be restored to the insolvent, the acceptance of the composition shall divest the trustee of such property and re-invest the insolvent therewith as from the date upon which such property is in pursuance of the composition to be restored to the insolvent, but subject to any condition provided for in the composition.

(3) A composition shall not affect the liability of a surety for the insolvent.

If insolvent partner enters into composition, trustee of partnership estate may take over his estate.

121. (1) When the estate of a partnership and the estate of a partner in that partnership are simultaneously under sequestration, the acceptance of an offer of composition by the separate creditors of the partner shall not take effect until the expiration of a period of six weeks as from the date of a notice in writing of that acceptance given by the trustee of the partner's separate estate to the trustee of the partnership estate, or if the trustee of the partner's estate is also the trustee of the partnership estate, as from the date of the acceptance. The said notice shall be accompanied by a copy of the deed embodying the composition.

(2) At any time during the said period of six weeks the trustee of the partnership estate may take over the assets of the estate of the insolvent partner if he fulfils the obligations of the insolvent partner in terms of the composition except obligations to render any service or obligations which only the insolvent partner can fulfil: Provided that if the composition provides for the giving of any specific security, the Master shall determine what other security the trustee of the partnership estate may give in lieu thereof.

Effect of composition on spouse of the insolvent.

122. A composition shall not be binding on the separate creditors of the spouse of the insolvent concerned; but upon the acceptance of the offer of composition the property or, if it has been realized, the proceeds of the property of that spouse shall be restored to her or him, without prejudice to the claims of the creditors of that spouse or to any right of preference of any of them at the time when the property was vested in the trustee: Provided that any movable property held as security by any such creditor when the property was vested in the trustee shall be restored to that creditor; and provided further that the proceeds of any security whatsoever which has been realized shall be paid to the person or persons entitled thereto, according to their rights.

Functions of trustee under composition.

123. (1) Any moneys to be paid and anything to be done for the benefit of creditors in pursuance of a composition shall be paid and shall be done, as far as practicable, through the trustee: Provided that any creditor who has failed to prove his claim before the trustee has made a final distribution among those creditors who have proved their claims, shall be entitled to recover direct from the insolvent within six months as from the confirmation by the Master, of the account under which the

volgens sub-artikel (8), dan is die insolvent geregtig op 'n sertifikaat, deur die Meester onderteken, van die aanname van die aanbod: Met dien verstande dat geen aanbod aldus aangeneem mag word nie as dit 'n voorwaarde bevat waardeur een of ander skuldeiser teenoor 'n ander skuldeiser 'n voordeel sou ontvang waarop hy nie geregtig sou gewees het nie by verdeling van die boedel op die gewone wyse; en met dien verstande voorts dat 'n voorwaarde wat die aanbod van 'n akkoord of die vervulling daarvan of van 'n deel daarvan afhanklik maak van die rehabilitasie of van die toestemming van die skuldeisers tot die rehabilitasie van die insolvent, nietig is: en met dien verstande ook dat as die akkoord bepaal dat sekuriteit gestel moet word, die aard van daardie sekuriteit ten volle omskrewe moet word, en as dit moet bestaan uit 'n borgakte of waarborg, elke borg genoem moet word.

(8) In sub-artikel (7) omvat die woord „skuldeiser” 'n skuldeiser wat nie 'n vordering teen die betrokke insolvente boedel bewys het nie.

120. (1) 'n Aanbod van 'n akkoord wat soos voormeld aangeneem is, verbind die insolvent en al die skuldeisers van die insolvente boedel vir sover as wat hulle vorderings nie verseker of andersins preferent is nie; dog die reg van 'n preferente skuldeiser word daardeur nie verkort nie, behalwe vir sover as wat hy uitdruklik en skriftelik van sy preferensie afgesien het.

Gevolge van akkoord.

(2) As dit 'n voorwaarde van die akkoord is dat een of ander goed in die insolvente boedel aan die insolvent teruggegee moet word dan het die aanname van die akkoord tot gevolg dat daardie goed aan die kurator onttrek word en weer op die insolvent oorgaan vanaf die dag waarop die goed ooreenkomstig die akkoord aan die insolvent teruggegee moet word dog behoudens een of ander voorwaarde wat in die akkoord opgeneem is.

(3) 'n Akkoord maak geen inbreuk op die aanspreeklikheid van 'n borg van 'n insolvent nie.

121. (1) Wanneer die boedel van 'n vennootskap en die boedel van 'n vennoot in daardie vennootskap gelyktydig onder sekwestrasie is, dan het die aanname van die aanbod van 'n akkoord deur die afsonderlike skuldeisers van die vennoot geen uitwerking nie totdat 'n termyn van ses weke verloop het vanaf die dag waarop die kurator van die vennoot se afsonderlike boedel aan die kurator van die vennootskapsboedel van die aanname skriftelik kennis gegee het, of as die kurator van die vennoot se boedel ook die kurator van die vennootskapsboedel is, vanaf die dag van die aanname. Beoelde kennisgewing moet vergesel gaan van 'n afskrif van die akte wat die akkoord bevat.

As insolvente vennoot akkoord aangaan, kan kurator van vennootskapsboedel sy boedel oorneem.

(2) Te eniger tyd gedurende voormelde termyn van ses weke kan die kurator van die vennootskapsboedel die bate in die boedel van die insolvente vennoot oorneem, as hy die verpligtings van die insolvente vennoot volgens die akkoord uitvoer, behalwe verpligtings om 'n diens te verrig of verpligtings wat slegs die insolvente vennoot kan uitvoer: Met dien verstande dat as die akkoord beding dat 'n bepaalde sekuriteit gestel moet word, die Meester moet bepaal watter ander sekuriteit die kurator van die vennootskapsboedel in plaas daarvan kan stel.

122. 'n Akkoord verbind nie die afsonderlike skuldeisers van die eggenote of eggenoot van die betrokke insolvent nie, dog by aanname van die aanbod van 'n akkoord word goed van daardie eggenote of eggenoot, of as dit te gelde gemaak is, die opbrings daarvan, aan haar of hom teruggegee, sonder afbreuk aan die vorderings van die skuldeisers van daardie eggenote of eggenoot of aan 'n preferente reg van een of meer van hulle op die tydstip toe die goed op die kurator oorgegaan het: Met dien verstande dat roerende goed wat so 'n skuldeiser as sekuriteit gehou het toe die goed op die kurator oorgegaan het, aan daardie skuldeiser teruggegee moet word; en met dien verstande voorts dat die opbrings van watter sekuriteit ook al wat te gelde gemaak is, aan die persoon of persone wat daarop geregtig is, uitbetaal moet word, ooreenkomstig hulle regte.

Uitwerking van akkoord op eggenote of eggenoot van insolvent.

123. (1) Alle gelde wat betaal en alle handelings wat verrig moet word ten bate van skuldeisers ingevolge 'n akkoord moet sover doenlik deur middel van die kurator betaal en verrig word: Met dien verstande dat 'n skuldeiser wat in gebreke gebly het om sy vordering te bewys voordat die kurator 'n finale verdeling gedaan het onder die skuldeisers wat wel hulle vorderings bewys het, geregtig is om binne ses maande vanaf die bekragtiging, deur die Meester, van die

Werkkring van kurator ingevolge akkoord.

distribution was made, any payments to which he may be entitled under the composition and the trustee shall have no duty in regard thereto and after the said distribution the creditor shall have no claim against the insolvent estate.

(2) When a composition has been entered into between an insolvent and the creditors of his estate, the trustee of that estate shall frame a liquidation account and plan of distribution of the assets which are or will become available for distribution among the creditors under the composition, and all the provisions of this Act which relate to a liquidation account and plan of distribution and to the distribution of assets among creditors shall apply in connection with the first-mentioned liquidation account and plan of distribution, and with the first-mentioned assets.

Application for rehabilitation.

124. (1) An insolvent who has obtained from the Master the certificate mentioned in sub-section (7) of section *one hundred and nineteen* may apply to the Court for an order for his rehabilitation: Provided that he has not less than three weeks before making the application, given, by advertisement in the *Gazette*, notice of his intention to make the application and delivered or posted in a registered letter to the trustee of his estate a copy of that notice; and provided further that the said certificate shows that payment has been made or the security prescribed by sub-section (7) or (8) of section *one hundred and nineteen* has been given for the payment of not less than seven shillings and sixpence for every pound of every claim proved or to be proved against the estate of the insolvent.

(2) An insolvent who is not entitled under sub-section (1) to apply to the Court for his rehabilitation and who has previously given to the Master and to the trustee of his estate in writing and by advertisement in the *Gazette* not less than six weeks' notice of his intention to apply to the Court for his rehabilitation may so apply—

- (a) after twelve months have elapsed from the confirmation by the Master, of the first trustee's account in his estate, unless he falls within the provisions of paragraph (b) or (c); or
- (b) after three years have elapsed from such confirmation if his estate has either under this Act or a prior law been sequestered prior to the sequestration to which he desires to put an end and if he does not fall within the provisions of paragraph (c); or
- (c) after five years have elapsed from the date of his conviction of any fraudulent act in relation to his existing or any previous insolvency or of any offence under section *one hundred and thirty-two*, *one hundred and thirty-three* or *one hundred and thirty-four* of this Act or under any corresponding provision of the Insolvency Act, 1916 (Act No. 32 of 1916):

Provided that no application for rehabilitation under this sub-section shall be granted before the expiration of a period of four years from the date of sequestration of the estate of the applicant, except upon the recommendation of the Master.

(3) After the expiration of a period of six months as from the sequestration of an estate, the insolvent concerned may apply to the Court for his rehabilitation—

- (a) if he has, not less than six weeks before making the application, given to the Master and to the trustee, if any, of his estate notice in writing, and published in the *Gazette* a notice of his intention to make the application; and
- (b) if, at the time of making the application, no claim has been proved against his estate; and
- (c) if he has not been convicted of an offence mentioned in paragraph (c) of sub-section (2); and
- (d) if his estate was not sequestered under any law prior to the sequestration which he desires to end.

(4) A trustee who has received a notice mentioned in sub-section (1), (2), or (3) shall report to the Master any facts which in his opinion would justify the Court in refusing, postponing, or qualifying the insolvent's rehabilitation.

(5) At any time after the confirmation by the Master, of a plan of distribution providing for the payment in full of all claims proved against an insolvent estate, with interest thereon from the date of sequestration, calculated in terms of sub-

rekening uit kragte waarvan die verdeling gedaan is, alle betalings waarop hy kragtens die akkoord geregtig mag wees, direk op die insolvent te verhaal en dat die kurator geen verpligtings in verband daarmee het nie en die skuldeiser na die voormelde verdeling geen vordering teen die insolvente boedel het nie.

(2) Wanneer 'n akkoord aangegaan is tussen 'n insolvent en die skuldeisers van sy boedel, moet die kurator van daardie boedel 'n likwidasierekening en 'n distribusierekening van die bate wat ter verdeling onder die skuldeisers ingevolge die akkoord beskikbaar is of sal word, opstel en is al die bepalings van hierdie Wet aangaande 'n likwidasierekening en 'n distribusierekening en die verdeling van bate onder skuldeisers van toepassing in verband met eersbedoelde likwidasierekening en distribusierekening en met eersbedoelde bate.

124. (1) 'n Insolvent wat van die Meester die sertifikaat bedoel in sub-artikel (7) van artikel *honderd-en-negentien* verkry het, kan die hof om sy rehabilitasie versoek, mits hy nie minder as drie weke voordat hy die versoek doen, deur 'n advertensie in die *Staatskoerant* kennis gegee het van sy voorneme om die versoek te doen en aan die kurator van sy boedel 'n afskrif van daardie kennisgewing oorhandig of in 'n geregistreerde brief deur die pos gestuur het en mits ook uit voormelde sertifikaat blyk dat nie minder as sewe shillings en ses pennies op elke pond van elke vordering wat teen die boedel van die insolvent bewys is of nog bewys sal word, betaal is of dat die sekuriteit wat sub-artikel (7) of (8) van artikel *honderd-en-negentien* vir die betaling van daardie bedrag voorskryf, gestel is.

Versoek om rehabilitasie.

(2) 'n Insolvent wat nie kragtens sub-artikel (1) geregtig is om die hof om sy rehabilitasie te versoek nie en wat nie minder as ses weke voorheen skriftelik aan die Meester en aan die kurator van sy boedel en deur 'n advertensie in die *Staatskoerant* kennis gegee het van sy voorneme om die hof om sy rehabilitasie te versoek, mag so 'n versoek doen—

- (a) nadat twaalf maande verstryk het vanaf die bekragtiging deur die Meester van die eerste kuratorsrekening in sy boedel tensy hy val onder die bepalings van paragraaf (b) of (c); of
- (b) nadat drie jaar verstryk het vanaf bedoelde bekragtiging as sy boedel hetsy kragtens hierdie Wet, hetsy kragtens 'n vorige wet gesekwestreer geword is voor die sekwestrasie waaraan hy 'n end wens te maak, mits hy nie onder die bepalings van paragraaf (c) val nie; of
- (c) nadat vyf jaar verstryk het vanaf die dag van sy veroordeling weens een of ander bedrieglike handeling met betrekking tot sy bestaande of 'n vorige insolvensie of weens 'n misdryf bedoel in artikel *honderd-twee-en-dertig*, *honderd-drie-en-dertig* of *honderd-vier-en-dertig* van hierdie Wet of in 'n daarmee ooreenstemmende bepaling van die „Insolventiewet, 1916” (Wet No. 32 van 1916):

Met dien verstande dat geen rehabilitasie ingevolge hierdie sub-artikel toegestaan mag word nie voordat 'n tydperk van vier jaar verstryk het vanaf die dag van die sekwestrasie van die versoeker se boedel, tensy die Meester dit aanbeveel.

(3) Na verstryking van 'n tydperk van ses maande vanaf die sekwestrasie van 'n boedel mag die betrokke insolvent die hof om sy rehabilitasie versoek—

- (a) as hy nie minder as ses weke voordat hy die versoek doen, skriftelik aan die Meester en aan die kurator (as daar een is) van sy boedel en deur 'n advertensie in die *Staatskoerant* kennis gegee het van sy voorneme om die versoek te doen; en
- (b) as daar, op die tydstip wanneer hy die versoek doen, geen vordering teen sy boedel bewys is nie; en
- (c) as hy nie veroordeel is nie weens 'n misdryf bedoel in paragraaf (c) van sub-artikel (2); en
- (d) as sy boedel nie kragtens watter wet ook al gesekwestreer was nie voor die sekwestrasie waaraan hy 'n end wens te maak.

(4) 'n Kurator wat 'n kennisgewing, bedoel in sub-artikel (1), (2) of (3) ontvang het, moet aan die Meester alle feite meedeel op grond waarvan die hof volgens sy mening geregtig sou wees om die rehabilitasie van die insolvent te weier, uit te stel of te kwalifiseer.

(5) Te eniger tyd na die bekragtiging, deur die Meester, van 'n distribusierekening waarin voorsiening gemaak word vir die volle betaling van alle teen 'n insolvente boedel bewese vorderings met rente daarop vanaf die dag van sekwestrasie,

section (2) of section *one hundred and three* and of all the costs of sequestration, the insolvent concerned may apply to the Court for his rehabilitation: Provided that he has not less than three weeks before making the application given notice in writing to the Master and to the trustee of his estate of his intention to make the application.

Security to be furnished prior to application for rehabilitation.

125. Not less than three weeks before applying to the Court for his rehabilitation an insolvent shall furnish to the registrar of the Court security, to the amount or value of twenty-five pounds, for the payment of the costs of any person who may oppose the rehabilitation and be awarded costs by the Court.

Facts to be averred on application for rehabilitation.

126. In support of an application for his rehabilitation, an insolvent shall submit his affidavit that he has made a complete surrender of his estate and has not granted or promised any benefit whatever to any person or entered into any secret agreement with intent to induce his trustee or any creditor not to oppose the rehabilitation. Such affidavit shall include a statement of his assets and liabilities and of his earnings at the date of the application. Information shall also be laid before the Court as to what dividend was paid to his creditors, what further assets in his estate are available for realization and the estimated value thereof, the total amount of all claims proved against his estate, and the total amount of his liabilities at the date of the sequestration of his estate. If application for rehabilitation is made pursuant to sub-section (1) of section *one hundred and twenty-four* the insolvent shall set out the particulars of the composition and shall state whether there are or are not creditors whose claims against his estate have not been proved, and if there are such creditors, he shall state their names and addresses and particulars of their claims.

Opposition to or refusal by Court of rehabilitation.

127. (1) Upon the day fixed for the hearing of an application for rehabilitation the Master shall report thereon to the Court, and the Master, the trustee or any creditor or other person interested in the estate of the applicant may appear in person or by counsel to oppose the grant of the application.

(2) Whether the application be opposed or not, the Court may refuse an application for rehabilitation or may postpone the hearing of the application or may rehabilitate the insolvent upon such conditions as it may think fit to impose and may order the applicant to pay the costs of any opposition to the application if it is satisfied that the opposition was not vexatious.

(3) Among the conditions referred to in sub-section (2), the Court may require the insolvent to consent to judgment being entered against him for the payment of any unsatisfied balance of any debt which was or could have been proved against his estate, or of such lesser sum as the Court may determine, but in such case execution shall not be issued on the judgment except with leave of the Court and on proof that the insolvent has since the date of sequestration of his estate acquired property or income available for the payment of his debts; or apart from any such judgment the Court may impose any other condition with respect to any property, or income which may accrue to the insolvent in the future.

(4) In granting an application for rehabilitation made under sub-section (1) of section *one hundred and twenty-four* the Court may order that any obligation incurred by the applicant before the sequestration of his estate which, but for that order, would be discharged as a result of the applicant's rehabilitation, shall remain of full force and effect, notwithstanding the rehabilitation.

(5) The registrar of the Court shall forthwith give notice to the Master of every rehabilitation of an insolvent granted by the Court.

Partnership cannot be rehabilitated.

128. A partnership whose estate has been sequestrated shall not be rehabilitated.

Effect of rehabilitation.

129. (1) Subject to the provisions of sub-section (3) and subject to such conditions as the Court may have imposed in granting a rehabilitation, the rehabilitation of an insolvent shall have the effect—

- (a) of putting an end to the sequestration;
- (b) of discharging all debts of the insolvent, which were due, or the cause of which had arisen, before the sequestration, and which did not arise out of any fraud on his part;
- (c) of relieving the insolvent of every disability resulting from the sequestration.

bereken volgens sub-artikel (2) van artikel *honderd-en-drie*, en van alle sekwestrasiekoste, kan die betrokke insolvent die hof om sy rehabilitasie versoek, mits hy nie minder as drie weke voordat hy die versoek doen, aan die Meester en aan die kurator van sy boedel skriftelik kennis gegee het van sy voorneme om die versoek te doen.

125. Nie minder as drie weke voordat 'n insolvent die hof om sy rehabilitasie versoek, moet hy in hande van die griffier sekuriteit stel tot 'n bedrag of waarde van vyf-en-twintig pond, tot betaling van die koste van iemand wat hom teen die rehabilitasie mag verset en aan wie die hof sy koste mag toestaan.

Voor aansoek om rehabilitasie moet sekuriteit gestel word.

126. Tot ondersteuning van 'n versoek om rehabilitasie, moet 'n insolvent sy beëdigde verklaring ooreël, dat hy sy boedel ten volle oorgegee het en dat hy aan niemand enige voordeel hoegenaamd verleen of belowe het nie en geen geheime ooreenkoms aangegaan het nie met die bedoeling om sy kurator of 'n skuldeiser te beweeg om hom nie teen die rehabilitasie te verset nie. Daardie beëdigde verklaring moet bevat 'n aangifte van sy bate en skulde en van sy verdienste op die dag van die versoek. Voorts moet aan die hof meegedeel word watter diwidend aan sy skuldeisers uitbetaal is, watter verdere bate in sy boedel nog beskikbaar is om te gelde gemaak te word en wat die geskatte waarde daarvan is, die totaalbedrag van alle teen sy boedel bewese vorderings en die totaalbedrag van sy skulde op die dag van die sekwestrasie van sy boedel. As die rehabilitasie versoek word ingevolge sub-artikel (1) van artikel *honderd-vier-en-twintig*, moet die insolvent die besonderhede van die akkoord aangee en vermeld of daar al dan nie skuldeisers is wie se vorderings teen sy boedel nie bewys is nie en as daar sulke skuldeisers is, moet hy hulle name en adresse en die besonderhede van hulle vorderings vermeld.

Feite wat by 'n versoek om rehabilitasie beweer moet word.

127. (1) Op die dag vasgestel vir die verhoor van 'n versoek om rehabilitasie, moet die Meester daaromtrent aan die hof verslag doen en die Meester, die kurator of 'n skuldeiser of ander persoon wat belang het by die boedel van die versoeker kan persoonlik of deur middel van 'n advokaat verskyn om hom te verset teen die bewilling van die versoek.

Verset teen rehabilitasie of weiering van rehabilitasie deur hof.

(2) Onverskillig of daar al dan nie verset teen die versoek is, kan die hof 'n versoek om rehabilitasie weier of die verhoor van die versoek uitstel of die insolvent rehabiliteer en wel op sodanige voorwaardes as wat die hof wenslik ag om te stel en kan die versoeker veroordeel tot betaling van die koste van verset teen die rehabilitasie, as die hof van oordeel is dat die verset nie vexatoor was nie.

(3) As een van die voorwaardes bedoel in sub-artikel (2) kan die hof van die insolvent verlang dat hy toestem tot 'n vonnis teen hom tot betaling van 'n nog onvoldane oorskot van 'n skuld wat teen sy boedel bewys is of bewys kon geword het, of van so 'n mindere bedrag as wat die hof mag bepaal, dog in daardie geval vind geen eksekusie op grond van die vonnis plaas nie dan met verlof van die hof en na bewys dat die insolvent sedert die dag van die sekwestrasie van sy boedel goedere of inkomste verkry het wat vir die betaling van sy skulde beskikbaar is; of afgesien van so 'n vonnis kan die hof enige ander voorwaarde stel met betrekking tot enige goed of inkomste wat in die toekoms aan die insolvent mag toekom.

(4) As die hof 'n versoek om rehabilitasie ingevolge sub-artikel (1) van artikel *honderd-vier-en-twintig* toestaan, kan die hof beveel dat 'n verbintenis van die versoeker wat voor die sekwestrasie van sy boedel ontstaan het, en wat afgesien van daardie bevel as gevolg van die versoeker se rehabilitasie gedelg sou geword het, sy volle regsgeldigheid behou, nieteenstaande die rehabilitasie.

(5) Die griffier van die hof moet onverwyld aan die Meester kennis gee van elke rehabilitasie van 'n insolvent wat die hof toegestaan het.

128. 'n Vennootskap wie se boedel gesekwestreer is, kan nie gerehabiliteer word nie.

Vennootskap kan nie gerehabiliteer word nie.

129. (1) Behoudens die bepalinge van sub-artikel (3) en behoudens die voorwaardes wat die hof by die verlening van 'n rehabilitasie mag gestel het, is die gevolg van die rehabilitasie van 'n insolvent dat—

Gevolge van rehabilitasie.

- (a) aan die sekwestrasie 'n end gemaak word;
- (b) alle skulde van die insolvent wat voor die sekwestrasie invorderbaar was of waarvan die oorsaak voor die sekwestrasie ontstaan het en wat nie uit sy bedrog ontstaan het nie, gedelg word;
- (c) die insolvent onthef word van elke onbevoegdheid wat uit die sekwestrasie voortspuit.

(2) A rehabilitation granted on an application made in circumstances described in sub-section (3) of section *one hundred and twenty-four* shall have the effect of reinvesting the insolvent with his estate.

(3) A rehabilitation shall not affect—

- (a) the rights of the trustee or creditors under a composition ;
- (b) the powers or duties of the Master or the duties of the trustee in connection with a composition ;
- (c) the right of the trustee or creditors to any part of the insolvent's estate which is vested in but has not yet been distributed by the trustee, but subject to the provisions of sub-section (2) ;
- (d) the liability of a surety for the insolvent ;
- (e) the liability of any person to pay any penalty or suffer any punishment under any provision of this Act.

Illegal inducements to vote for composition or not to oppose rehabilitation.

130. Any undertaking to grant any benefit to any person in order to induce him or any other person to accept an offer of composition or to agree to, or refrain from opposing the rehabilitation of an insolvent, or as a consideration for the acceptance of an offer of composition or for the agreement to or non-opposition of the rehabilitation of an insolvent (whether by the person for whom the benefit is intended or by any other person), shall be void and any person who has accepted any such benefit or who has stipulated for any such benefit, whether for himself or any other person shall be liable to pay by way of penalty for the benefit of the creditors of the insolvent estate in question—

- (a) a sum equal to the amount of the claim (if any) which he originally proved against the estate ; and
- (b) the amount or value of any benefit given or promised ; and
- (c) in case of a composition, the amount paid or to be paid to him under the composition.

Recovery of penalty.

131. The trustee may enforce and recover any penalty mentioned in section *one hundred and thirty* and if he fails to do so any creditor may do so in the name of the trustee, upon his indemnifying the trustee against all costs in connection with such action.

Concealing or destroying books or assets.

132. An insolvent shall be guilty of an offence and liable to imprisonment for a period not exceeding three years if at any time before or after the sequestration of his estate he does any of the following acts, unless it is proved that he had no intention to defraud ; that is to say, if he—

- (a) conceals, parts with, destroys, mutilates, falsifies or makes any false entry or erasure in any book or document relating to his business, property or affairs or permits any other person to commit any such act in regard to any such book or document ; or
- (b) conceals or permits the concealment of any assets which ought to be placed at the disposal of the trustee ; or
- (c) otherwise than in the ordinary course of business makes, or permits the making of a disposition of any property which he has obtained on credit and has not paid for ; or
- (d) otherwise than in the ordinary course of business destroys, damages, removes or makes a disposition of, or permits the destruction, damage, removal or the making of a disposition of, any assets in his estate if such destruction, damage, removal or disposition has prejudiced or is calculated to prejudice his creditors :

Provided that—

- (i) whenever in any proceedings for a contravention of paragraph (a) any act described in that paragraph is proved to have been committed in regard to any book or other document relating to the business, property or affairs of the insolvent, he shall be deemed to have committed or permitted such act unless it is proved that he neither committed it nor could have prevented the commission ;
- (ii) in any proceedings for a contravention of paragraph (c) or paragraph (d) any disposition, destruction, damage or removal of assets proved to have been committed shall, unless the contrary is proved, be deemed to have been otherwise than in the ordinary course of business ;
- (iii) if it appears from any book or document relating to the business, property or affairs of the insolvent

(2) 'n Rehabilitasie verleen op 'n versoek gedaan in die omstandighede vermeld in sub-artikel (3) van artikel *honderd-vier-en-twintig* het ten gevolge dat die boedel van die insolvent weer op hom oorgaan.

(3) 'n Rehabilitasie is van geen invloed nie op—

- (a) die regte van die kurator of skuldeisers kragtens 'n akkoord;
- (b) die bevoegdhede of verpligtings van die Meester of die verpligtings van die kurator in verband met 'n akkoord;
- (c) die reg van die kurator of skuldeisers op enige deel van die insolvent se boedel wat onder beheer van die kurator is maar nog nie deur hom verdeel is nie, dog behoudens die bepaling van sub-artikel (2);
- (d) die aanspreeklikheid van 'n borg van die insolvent;
- (e) die verpligting van iemand om 'n boete te betaal of sy strafbaarheid ingevolge 'n bepaling van hierdie Wet.

130. 'n Belofte om aan iemand 'n voordeel te verleen om hom of iemand anders te beweeg om 'n aanbod van 'n akkoord aan te neem of om tot die rehabilitasie van 'n insolvent toe te stem of om hom nie daarteen te verset nie, of as vergoeding vir die aanname van 'n aanbod van 'n akkoord of vir toestemming tot die rehabilitasie van 'n insolvent of omdat geen verset daarteen ingebring is nie (hetsy deur die persoon vir wie die voordeel bestem is of deur iemand anders), is nietig en iemand wat so 'n voordeel aangeneem of beding het, hetsy vir homself, hetsy vir iemand anders, kan verplig word tot betaling, as 'n boete, ten bate van die skuldeisers van die betrokke insolvente boedel—

Onwettige bewegsmiddels om vir akkoord te stem of om verset teen rehabilitasie te voorkom.

- (a) van 'n som gelyk aan die vordering wat hy oorspronklik teen die boedel mog bewys het; en
- (b) van die bedrag of waarde van elke verleende of beloofde voordeel; en
- (c) in geval van 'n akkoord, van die bedrag wat kragtens die akkoord aan hom betaal is of sal word.

131. Die kurator kan 'n boete bedoel in artikel *honderden-dertig*, laat geld en invorder en as die kurator in gebreke bly om dit te doen, kan enige skuldeiser dit namens die kurator doen, mits hy die kurator skadeloos stel weens alle koste in verband met daardie handeling.

Invordering van boete.

132. 'n Insolvent is aan 'n misdryf skuldig en strafbaar met gevangenisstraf van hoogstens drie jaar as hy te eniger tyd voor of na die sekwestrasie van sy boedel een van die volgende handelings begaan, tensy bewys word dat hy geen bedoeling had om te bedrieg nie; naamlik as hy—

Verberging of vernietiging van boeke of bate.

- (a) in 'n boek of geskrif wat betrekking het op sy besigheid, goedere of sake verberg, van die hand sit, vernietig, vermink, vervals of 'n valse aantekening daarin maak of iets daarin uitwis of toelaat dat iemand anders so 'n handeling met betrekking tot so 'n boek of geskrif begaan; of
- (b) bate wat ter beskikking van die kurator behoort gestel te word, verberg of hulle verberging toelaat; of
- (c) goed wat hy op krediet verkry en waarvoor hy nie betaal het nie, op 'n ander wyse as 'n gewone besigheidswyse vervreem of toelaat dat iemand anders dit doen; of
- (d) op 'n ander wyse as 'n gewone besigheidswyse bate in sy boedel vernietig, beskadig, verwyder of vervreem of toelaat dat iemand anders dit doen as daardie vernietiging, beskadiging, verwydering of vervreemding sy skuldeisers benadeel het of sou kan benadeel;

Met dien verstande dat—

- (i) wanneer in 'n geding weens 'n oortreding van paragraaf (a), bewys word dat 'n handeling, in daardie paragraaf bedoel, begaan is met betrekking tot 'n boek of geskrif wat betrekking het op die besigheid, goedere of sake van die insolvent, dan vermoed word dat hy daardie handeling begaan of toegelaat het, tensy bewys word dat hy dit nie begaan het en ook nie die begaan daarvan kon verhoed het nie;
- (ii) in 'n geding weens 'n oortreding van paragraaf (c) of (d), elke vervreemding, vernietiging, beskadiging of verwydering van bate wat bewys word begaan te wees, vermoed word op 'n ander wyse as 'n gewone besigheidswyse begaan te wees, tensy die teendeel bewys word;
- (iii) as blyk uit 'n boek of geskrif wat betrekking het op die besigheid, goedere of sake van die insolvent of

or if it is proved in any other manner whatsoever that there ought to be available to the trustee at least ten per cent. more assets of the estate than the assets actually available to him, such insolvent shall be deemed to have removed or made a disposition of assets of a value equal to the difference between the value of the assets which ought to be available, and the value of the assets actually so available, in contravention of paragraph (d), unless he fully and accurately accounts for or explains the deficiency and proves that the deficiency was not caused by his action and that he could not have prevented it.

Concealment of liabilities or pretext to existence of assets.

133. An insolvent shall be guilty of an offence and liable to imprisonment for a period not exceeding three years if, within two years immediately preceding the sequestration of his estate, when making any statement either verbally or in writing in regard to his business, property or affairs to any person who was then his creditor or to any person who became his creditor on the faith of such a statement, he concealed any liability, present or future, certain or contingent, which he may then have contracted, or failed to disclose the full extent of his liability or mentioned, as if it were an asset, any right or property which at the time was not an asset, or represented that he had more assets than he in fact had or made any false statement in regard to the amount, quality or value of his assets, or in any way concealed or disguised or attempted to conceal or disguise any loss which he had sustained, or gave any incorrect amount thereof, unless it is proved that he had good reason to believe that the said statement was correct in every respect and that he was not concealing or failing to disclose or disguising any relevant fact.

Failure to keep proper records.

134. (1) An insolvent shall be guilty of an offence and liable to imprisonment for a period not exceeding one year if his occupation or transactions prior to the sequestration of his estate were such that he might reasonably be expected to keep a record of his transactions, and he failed to keep a proper record of his transactions in the English or the Dutch language and to preserve that record during a period of not less than three years.

(2) For the purposes of this section a proper record of transactions includes all such books, wherein is set forth clearly the nature of all such person's transactions, as (regard being had to his occupation) he can reasonably be expected to have kept. A trader shall be deemed not to have kept a proper record of his transactions unless he kept a record which includes—

- (a) detailed stock sheets (which shall disclose the cost price of every article on hand at the date of stock-taking which has been purchased by the trader for the purpose of his business) and balance sheets completed for each of his three financial or business years immediately preceding the sequestration of his estate, or if he commenced business less than three years before the sequestration, completed at the commencement of his business and thereafter for each financial or business year preceding the sequestration;
- (b) books exhibiting for the period since the commencement of his business or since the commencement of his financial or business year next but one before the financial or business year in which his estate was sequestrated (whichever period is the less) the following particulars—
 - (i) all property purchased in the course of the business, duly supported by the original invoices;
 - (ii) all cash receipts and disbursements and the dates thereof;
 - (iii) a daily record of all property sold on credit, and such a continuous record of all transactions as a trader may be expected to keep in the ordinary course of his business;
 - (iv) the name of every person indebted to the trader and of every person to whom the trader is indebted and the address of every such person at the time when the indebtedness arose or at any time thereafter;
- (c) a record of all cheques drawn during the period mentioned in paragraph (b) and the counterfoils

as op watter ander wyse ook bewys word dat daar minstens tien persent meer bate in die boedel aan die kurator beskikbaar behoort te wees dan die bate wat werklik aan hom beskikbaar is, vermoed word dat die insolvent, in stryd met paragraaf (d), bate van 'n waarde gelyk aan die verskil tussen die waarde van bate wat beskikbaar behoort te wees en die waarde van die bate wat werklik beskikbaar is, verwyder of vervreem het, tensy hy ten volle en juis rekenskap gee van die tekort of dit verklaar en bewys dat die tekort nie deur sy toedoen veroorsaak is nie en dat hy dit nie kon verhoed het nie.

133. 'n Insolvent is aan 'n misdryf skuldig en strafbaar met gevangenisstraf van hoogstens drie jaar, as hy, binne die twee jaar wat aan die sekwestrasie van sy boedel onmiddellik voorafgaan, by 'n mondelinge of skriftelike mededeling omtrent sy besigheid, goedere of sake, aan iemand wat toe sy skuldeiser was of aan iemand wat sy skuldeiser geword het omdat hy op daardie mededeling vertrou het, 'n teenswoordige of toekomstige, sekere of voorwaardelike skuld wat hy mog aangegaan het, verberg het of versuim het om die volle omvang van sy skuld te openbaar of 'n reg of goed wat op die betrokke tydperk geen bate was nie, vermeld het asof dit wel bate was of voorgegee het dat hy meer bate had as wat hy werklik had of 'n valse bewering gemaak het omtrent die bedrag, hoedanigheid of waarde van sy bate of op watter wyse ook 'n verlies wat hy gelyk het, verberg of verbloem het of gepoog het om dit te verberg of te verbloem, of 'n onjuiste bedrag daarvan opgegee het, tensy bewys word dat hy 'n gegronde rede had om te glo dat bedoelde mededeling in elke opsig juis was en hy nie 'n feit van belang verberg of nie openbaar of verbloem het nie.

Verberging van skulde of voorwending dat daar bate is.

134. (1) 'n Insolvent is skuldig aan 'n misdryf en strafbaar met gevangenisstraf van hoogstens een jaar, as sy beroep of regshandelings voor die sekwestrasie van sy boedel van die aard was, dat redelikerwys van hom verwag kon word dat hy van sy regshandelings aantekening sou hou en hy versuim het om van sy regshandelings behoorlik aantekening te hou in die Engelse of die Afrikaanse taal en die aantekening gedurende 'n tydperk van nie minder as drie jaar te bewaar.

Versuim om behoorlik boek te hou.

(2) By die toepassing van hierdie artikel omvat 'n behoorlike aantekening van regshandelings alle boeke, waarin duidelik die aard van elke regshandeling van bedoelde persoon vermeld staan, wat hy met die oog op sy beroep, redelikerwys verwag kon word om te hou. Van 'n handelaar word vermoed dat hy nie behoorlik aantekening van sy regshandelings gehou het nie, tensy hy aantekening gehou het wat omvat—

- (a) gespesifiseerde voorraadstate (waarin moet aangegee word die kosteprys van elke artikel voorhande op die datum van voorraad-opname en wat die handelaar vir sy besigheid gekoop het) en balansstate, opgemaak vir elkeen van die drie boek- of besigheidsjare wat aan die sekwestrasie van die handelaar se boedel onmiddellik voorafgaan of as hy minder as drie jaar voor die sekwestrasie sy besigheid begin het, opgemaak aan die begin van sy besigheid en daarna vir elke boek- of besigheidsjaar wat aan die sekwestrasie voorafgaan;
- (b) boeke, waarin onderstaande besonderhede voorkom oor die tydperk sedert die begin van die besigheid of sedert die begin van die boek- of besigheidsjaar wat voorafgaan aan die boek- of besigheidsjaar voor die boek- of besigheidsjaar waarin die handelaar se boedel gesekwestreer is (na gelang die een of die ander tydperk korter is), naamlik—
 - (i) alle goedere in die loop van die besigheid gekoop, behoorlik gestaaf deur die oorspronklike fakture;
 - (ii) alle ontvangste en uitgawes in kontant en die datums daarvan;
 - (iii) daaglikse aantekeninge van alle op krediet verkoopte goedere en sulke deurlopende aantekeninge van alle regshandelings as wat 'n handelaar verwag kan word te maak in die gewone loop van sy besigheid;
 - (iv) die naam van elke persoon wat aan die handelaar iets skuld en van elke persoon aan wie die handelaar iets skuld en die adres van elke sodanige persoon op die tydperk toe die skuld ontstaan het of te eniger tyd daarna;
- (c) 'n aantekening van alle tjeks, gedurende die tydperk bedoel in paragraaf (b) getrek, en die kontrablaaie

of such cheques, showing clearly, in the case of each cheque and on each counterfoil, the name of the payee, the amount of the cheque, and the date of the cheque :

Provided that a trader who proves that his turnover for the two years immediately preceding the sequestration of his estate or since the commencement of the business (whichever period is the less), was at the rate of less than one thousand pounds per annum shall be deemed to have kept a proper record, if the court, or jury dealing with the matter in question, having regard to the nature and circumstances of the business, is satisfied that he has kept a sufficient record of his transactions and that the record complies with the requirements of sub-paragraph (iv) of paragraph (b).

Undue preferences,
contracting debts
without expecta-
tion of ability to
pay, etc.

135. (1) An insolvent shall be guilty of an offence and liable to imprisonment not exceeding one year, if, prior to the sequestration of his estate, he made a disposition of any part of his property with the intention of preferring one or more of his creditors above the others or any other if at the time when he made that disposition his liabilities exceeded the value of his assets: Provided that any such disposition which had the effect of preferring, or was calculated to prefer, one or more creditors above the others or any other shall, unless the contrary is proved, be deemed to have been made with the intention of preferring such creditor or creditors above the others or any other. Provided, further, that if the insolvent's estate was sequestrated within a period of six months as from the date of making such a disposition, his liabilities shall be deemed to have exceeded the value of his assets at that date, unless the contrary is proved.

(2) In sub-section (1) the expression "creditor" includes a surety for the insolvent as well as a person who in law is in a position analagous to that of a surety.

(3) An insolvent shall be guilty of an offence and liable to imprisonment for a period not exceeding two years if, prior to the sequestration of his estate—

- (a) he contracted any debt of fifteen pounds or more or debts to the aggregate of fifty pounds or more, without any reasonable expectation of being able to discharge such debt or debts; or
- (b) at a time when his liabilities exceeded his assets or during the period of six months immediately preceding the sequestration of his estate, he diminished his assets by gambling, betting, hazardous speculations or expenditure, not reasonably necessary in connection with his business or vocation or for the maintenance of himself and his dependents :

Provided that in any proceedings for a contravention of paragraph (a) the insolvent shall, unless the contrary is proved, be deemed to have contracted the debt or debts without having had a reasonable expectation of discharging it or them, if the debt was or the debts were contracted—

- (i) at a time when his liabilities exceeded his assets; or
- (ii) within the period of six months immediately preceding the sequestration of his estate.

Failure to give
information or to
deliver assets,
books, etc.

136. An insolvent shall be guilty of an offence and liable to imprisonment for a period not exceeding three years—

- (a) if at any time during the sequestration of his estate he, knowing or suspecting that any person has proved or intends to prove a false claim against his estate, fails to inform the Master and the trustee of his estate in writing of that knowledge or suspicion, within seven days as from the date upon which he acquired that knowledge or upon which his suspicion was aroused ;
- (b) if he fails within fourteen days as from the appointment of the trustee of his estate—
 - (i) to deliver to the trustee or as the trustee may in writing direct, any property of whatever nature belonging to the estate which may be in his possession or custody or under his control ; or
 - (ii) to inform the trustee of the existence and whereabouts of any property belonging to the estate (other than property mentioned in sub-paragraph

van daardie tjeks, met duidelike aangifte by elke tjeek en op elke kontrablad, van die naam van die nemer, die bedrag van die tjeek en die datum van die tjeek:

Met dien verstande dat 'n handelaar wat bewys dat sy omset gedurende die twee jaar wat aan die sekwestrasie van sy boedel onmiddellik voorafgaan of sedert die begin van die besigheid (na gelang die een of die ander tydperk korter is) minder beloop het as duisend pond per jaar, vermoed word behoorlik aantekening te gehou het as die hof of jurie wat die betrokke saak behandel, van oordeel is dat hy met die oog op die aard en omstandighede van sy besigheid, van sy regshandelings voldoende aantekening gehou het, en dat die aantekening voldoende aan die vereistes van sub-paragraaf (iv) van paragraaf (b).

135. (1) 'n Insolvent is aan 'n misdryf skuldig en strafbaar met gevangenisstraf van hoogstens een jaar as hy voor die sekwestrasie van sy boedel 'n deel van sy goedere vervreem het met die bedoeling om aan een of meer van sy skuldeisers voorkeur te verleen bo die andere of bo 'n ander indien ten tyde van daardie vervreemding sy skulde meer as die waarde van sy bate bedra het: Met dien verstande dat so 'n vervreemding wat die verlening van voorkeur aan een of meer skuldeisers bo die andere of bo 'n ander ten gevolge gehad het of kon gehad het, behoudens teenbewys, vermoed word te geskied het met die bedoeling om aan daardie skuldeiser of skuldeisers voorkeur te verleen bo die andere of bo 'n ander: Met dien verstande voorts dat as die insolvent se boedel binne 'n tydperk van ses maande vanaf die dag waarop so 'n vervreemding plaasgevind het, gesekwestreer word, behoudens teenbewys, vermoed word dat ten tyde van die vervreemding sy skulde die waarde van sy bate te bo gegaan het.

Onbehoorlike voorkeur, aangaan van skulde sonder vooruitsig van vermoë om te betaal, ens.

(2) In sub-artikel (1) omvat die uitdrukking „skuldeiser” 'n borg van die insolvent en ook iemand wat regtens 'n posisie inneem wat van gelyke aard is as die van 'n borg.

(3) 'n Insolvent is aan 'n misdryf skuldig en strafbaar met gevangenisstraf van hoogstens twee jaar as hy voor die sekwestrasie van sy boedel—

(a) 'n skuld van vyftien pond of meer of skulde van gesamentlik vyftig pond of meer aangegaan het, sonder dat hy 'n redelike verwagting had dat hy daardie skuld of skulde sal kan vereffen; of

(b) te eniger tyd wanneer sy skulde meer as sy bate bedra het of gedurende die tydperk van ses maande wat aan die sekwestrasie van sy boedel onmiddellik voorafgaan, sy bate verminder het deur dobbelary, weddenskappe, gewaagde spekulasies of uitgawe wat nie redelikerwys nodig was nie in verband met sy besigheid of beroep of tot onderhoud van homself en van diegenes wat van hom afhanklik is:

Met dien verstande dat in 'n geding weens 'n oortreding van paragraaf (a) die insolvent, behoudens teenbewys, vermoed word die skuld of skulde aan te gegaan het sonder dat hy 'n redelike verwagting gehad het dat hy hom of hulle sal kan vereffen, as die skuld of skulde aangegaan is—

(i) op 'n tydstop toe sy skulde meer as sy bate bedra het; of

(ii) binne die tydperk van ses maande wat aan die sekwestrasie van sy boedel onmiddellik voorafgegaan het.

136. 'n Insolvent is aan 'n misdryf skuldig en strafbaar met gevangenisstraf van hoogstens drie jaar—

(a) as hy te eniger tyd gedurende die sekwestrasie van sy boedel, wanneer hy weet of vermoed dat iemand 'n valse vordering teen sy boedel bewys het of wil bewys, versuim om binne sewe dae vanaf die dag waarop hy daardie kennis verkry of waarop daardie vermoede by hom verwek is, die Meester en die kurator van sy boedel van daardie wete of vermoede skriftelik in kennis te stel;

Versuim om inligtings te verstrek of om bate, boeke, ens., te oorhandig.

(b) as hy versuim om binne veertien dae vanaf die aanstelling van die kurator van sy boedel—

(i) goed van watter aard ook al wat tot sy boedel behoort en wat in sy besit of bewaring of onder sy beheer mag wees, aan die kurator of volgens skriftelike opdrag van die kurator te oorhandig; of

(ii) die kurator in kennis te stel van die bestaan van enige tot die boedel behorende goed (behalwe goed bedoel in sub-paragraaf (i)) wat nie ten

- (i)), which is not fully disclosed in the statement of his affairs mentioned in section *four* or *sixteen* or which is not already in the possession of the trustee; or
- (iii) to deliver to the trustee or deputy sheriff, or as either of them may direct all books and documents in his possession or custody or under his control, relating to his affairs; or
- (iv) to inform the trustee of the existence or whereabouts of any such book or document not in his possession or custody or under his control, if it is not already in the possession of the trustee; unless, in any such case, he proves that he had a reasonable excuse for such failure;
- (c) if, at any time after the sequestration of his estate, he fails to furnish at the request of the trustee complete and truthful information regarding any property which was at any time in his possession or custody or under his control, or regarding the time when or the manner or circumstances in which he disposed of such property or ceased to be in possession, custody or control thereof, unless he proves that he had a reasonable excuse for such failure.

Obtaining credit during insolvency, offering inducements, etc. **137.** Any person shall be guilty of an offence and liable to imprisonment for a period not exceeding one year—

- (a) if, during the sequestration of his estate, he obtains credit to an amount exceeding ten pounds without previously informing the person from whom he obtains credit that he is an insolvent, unless he proves that such person had knowledge of that fact; or
- (b) if he grants, promises, or offers any consideration whatever in order to procure the acceptance by any creditor of an offer of composition or to prevent opposition to a rehabilitation or, during the sequestration of any estate, to induce any person to refrain from investigating any matter relating to that estate or from disclosing any information in regard thereto; or
- (c) if he contravenes or fails to comply with the provisions of section *sixteen*, or of sub-section (3), (4) or (12) of section *twenty-three* unless he proves that he had a reasonable excuse for such contravention or failure; or
- (d) if he makes any false statement in the statement of his affairs mentioned in section *four* or *sixteen*, or in the statement mentioned in sub-section (4) of section *twenty-three*.

Failure to attend meetings of creditors or give certain information. **138.** An insolvent shall be guilty of an offence and liable to imprisonment for a period not exceeding six months—

- (a) if he fails to comply with the requirements of sub-section (1) of section *sixty-four*; or
- (b) if he fails, when thereto required in writing by the trustee of his estate, to give a true, clear and detailed explanation of his insolvency or fails to account correctly and in detail for the excess of his liabilities over his assets; or
- (c) if, at a meeting of the creditors of his estate, when thereto required by the trustee or the officer presiding or any creditor or by the agent of any of them, he fails to account for or to disclose what has become of any property which was in his possession so recently that in the ordinary course he ought to be able to account therefor; or
- (d) if he fails to comply with the requirements of sub-section (13) of section *twenty-three*.

Failure to appear or to give evidence or giving false evidence. **139.** (1) Any person shall be guilty of an offence and liable to a fine not exceeding fifty pounds or to imprisonment without the option of a fine for a period not exceeding six months if he is guilty of an act or omission for which he has been or might have been lawfully committed to prison in terms of sub-section (2) or (3) of section *sixty-six*.

(2) Any person shall be guilty of an offence and liable to the punishment provided by law for the crime of perjury, if, when being interrogated on oath under this Act, he wilfully makes, relative to the subject in connection wherewith he is interrogated, any statement whatever which he knows to be false or which he does not know or believe to be true.

- volle aangegee is nie in sy vermoëstaat bedoel in artikel vier of sestiën of wat nie reeds in besit van die kurator is nie, en waar daardie goed is ; of
- (iii) alle boeke en geskrifte in sy besit of bewaring of onder sy beheer, wat op sy sake betrekking het, aan die kurator of onderbalju of volgens voorskrif van die een of ander van hulle, te oorhandig ; of
- (iv) die kurator in kennis te stel van die bestaan van so 'n boek of geskrif wat nie in sy besit of bewaring of onder sy beheer is nie, as dit nie reeds in die kurator se besit is nie, en waar daardie boek of geskrif is ;

- tensy hy in elke sodanige geval bewys dat hy 'n redelike verontskuldiging vir die versuim had ;
- (c) as hy te eniger tyd na die sekwestrasie van sy boedel versuim om op versoek van die kurator volledige en ware inligtings te verstrek omtrent enige goed wat te eniger tyd in sy besit of bewaring of onder sy beheer was of omtrent die tyd wanneer of die wyse waarop of die omstandighede waarin hy daardie goed van die hand gesit het of opgehou het om dit in sy besit of bewaring of onder sy beheer te hê, tensy hy bewys dat hy 'n redelike verontskuldiging vir die versuim had.

137. Enigeen is aan 'n misdryf skuldig en strafbaar met gevangenisstraf van hoogstens een jaar—

Verkry van krediet gedurende insolvensie, aanbod van sekere vergoeding, ens.

- (a) as hy gedurende die sekwestrasie van sy boedel krediet verkry vir 'n bedrag van meer as tien pond sonder om voorheen aan die persoon van wie hy krediet verkry, mee te deel dat hy 'n insolvent is, tensy hy bewys dat daardie persoon dit geweet het ; of
- (b) as hy enige vergoeding hoegenaamd verleen, belowe of aanbied om te bewerkstellig dat 'n skuldeiser 'n aanbod van 'n akkoord aanneem of om verset teen 'n rehabilitasie te voorkom of om gedurende die sekwestrasie van 'n boedel iemand te beweeg om die ondersoek van 'n saak aangaande daardie boedel agterweë te laat of gegewens met betrekking daartoe te verswyg ; of
- (c) as hy die bepalinge van artikel sestiën of van sub-artikel (3), (4) of (12) van artikel drie-en-twintig oortree of verontagsaam, tensy hy bewys dat hy 'n redelike verontskuldiging vir daardie oortreding of verontagsaming had ; of
- (d) as hy 'n valse verklaring maak in die vermoëstaat bedoel in artikel vier of sestiën of in die staat bedoel in sub-artikel (4) van artikel drie-en-twintig.

138. 'n Insolvent is aan 'n misdryf skuldig en strafbaar met gevangenisstraf van hoogstens ses maande—

Versuim om byeenkomste van skuldeisers by te woon of sekere inligtings te verstrek.

- (a) as hy versuim om te voldoen aan die vereistes van sub-artikel (1) van artikel vier-en-estig ; of
- (b) as hy versuim om, op skriftelike aansegging van die kurator van sy boedel, 'n ware, duidelike en gespesifiseerde uitleg van sy insolvensie te gee of versuim om juiste en gespesifiseerde rekenskap te gee van die feit dat sy skulde sy bate te bowe gaan ; of
- (c) as hy op 'n byeenkoms van die skuldeisers van sy boedel, wanneer die kurator of die voorsittende amptenaar of 'n skuldeiser of die verteenwoordiger van een van hulle dit van hom verlang, versuim om rekenskap te gee of mee te deel wat geword het van goed wat so onlangs in sy besit was dat hy in die gewone loop van sake daarvan behoort rekenskap te kan gee ; of
- (d) as hy versuim om te voldoen aan die vereistes van sub-artikel (13) van artikel drie-en-twintig.

139. (1) Enigeen is aan 'n misdryf skuldig en strafbaar met 'n boete van hoogstens vyftig pond of met gevangenisstraf van hoogstens ses maande, sonder keuse van 'n boete as hy skuldig is aan 'n handeling of versuim waarvoor hy volgens sub-artikel (2) of (3) van artikel ses-en-estig wettig na die gevangenis verwys is of verwys kon geword het.

Versuim om te verskyn of getuienis af te lê of aflegging van valse getuienis.

(2) Enigeen is skuldig aan 'n misdryf en strafbaar met die straf waarmee iemand regtens weens meened strafbaar is, as hy, wanneer hy kragtens hierdie Wet onder eed ondervra word, met betrekking tot die onderwerp in verband waarmee hy ondervra word, opsetlik enige bewering hoegenaamd maak, waarvan hy weet dat dit vals is of waarvan hy nie weet of glo dat dit waar is nie.

Failure of insolvent or spouse to appear to give evidence.

140. An insolvent or the spouse of an insolvent shall be guilty of an offence and liable to imprisonment for a period not exceeding six months if, when summoned to give evidence in any proceedings instituted by or against the trustee of the insolvent's estate he or she conceals himself or herself or quits the Union or without reasonable excuse fails to attend those proceedings or refuses to answer any question which may be lawfully put to him or her in the course of those proceedings.

Acceptance of consideration for certain illegal acts or omissions.

141. Any person shall be guilty of an offence and liable to a fine not exceeding fifty pounds or to imprisonment without the option of a fine for a period not exceeding six months if he accepts any benefit or the promise or offer of any benefit as a consideration for having refrained from or discontinued, or for his undertaking to refrain from or to discontinue any proceedings for the sequestration of an estate or for having agreed to, or not opposed, or for his undertaking to agree to or not to oppose a composition in an insolvent estate or the rehabilitation of an insolvent, or for having refrained or undertaken to refrain from investigating any matter relating to an insolvent or an insolvent estate or from disclosing any information in regard to an insolvent or an insolvent estate.

Removing or concealing property to defeat an attachment or failure to disclose property.

142. (1) Any person shall be guilty of an offence and liable to imprisonment for a period not exceeding three years if, either before or after the sequestration of an estate, he removes, conceals, disposes of, deals with or receives any asset belonging to that estate with intent to defeat an attachment by virtue of a sequestration order, or with intent to prejudice the creditors in that estate: Provided that in any proceedings for an offence under this sub-section, any such removal, concealment, disposal of, dealing with or receipt of assets which had the effect of defeating or was calculated to defeat such attachment or which prejudiced or was calculated to prejudice the creditors of that estate, shall, unless the contrary is proved, be deemed to have been committed with intent to defeat the attachment or (as the case may be) to prejudice those creditors.

(2) Any person who has in his possession or custody or under his control any property belonging to an insolvent estate and who knows of the sequestration of the estate and that the property belongs to it, shall be guilty of an offence and liable to a fine not exceeding three hundred pounds or to imprisonment without the option of a fine for a period not exceeding one year if he fails to inform the trustee of the estate as soon as possible of the existence and whereabouts of the property and (subject to the provisions of section *eighty-three*) to deliver it to, or place it at the disposal of the trustee.

(3) The provisions of sub-sections (1) and (2) shall not apply to an insolvent in respect of any property belonging to his own insolvent estate.

(4) A secured creditor of an insolvent estate who has realized his security in terms of section *eighty-three* and who has failed after written demand to pay over the proceeds of the realization in accordance with the provisions of sub-section (10) of that section, shall, apart from any other offence which he may have committed in connection with those proceeds, be guilty of an offence and liable to the penalties mentioned in sub-section (2).

Criminal liability of partners, administrators, servants or agents.

143. (1) A person who—

- (a) is or was a member of a partnership and who does or omits to do in relation to any property or to the affairs of that partnership or of the insolvent estate of that partnership; or
- (b) is or was charged with the administration of an estate and who does or omits to do in relation to any property or to the affairs of that estate; or
- (c) as a servant or agent has or had the sole or practical control of any property or of the affairs of his employer or principal and who does or omits to do in relation to that property or to the affairs of his employer or principal or of the insolvent estate of his former employer or principal,

any act which, if done or omitted by him in the like circumstances in relation to his own property or affairs or to any property belonging to, or the affairs of his insolvent estate, would have constituted an offence under this Act, shall be deemed to have committed that offence.

140. 'n Insolvent of die eggenote of eggenoot van 'n insolvent is aan 'n misdryf skuldig en strafbaar met gevangenisstraf van hoogstens ses maande, as hy of sy, wanneer hy of sy gedagvaar geword is om getuienis af te lê in 'n geding deur of teen die kurator van die insolvent se boedel ingestel, homself of haarself verberg of die Unie verlaat of sonder redelike verontskuldiging versuim om daardie geding by te woon of weier om 'n vraag te beantwoord wat aan hom of haar in die loop van daardie geding wettig gestel mag word.

Versuim van insolvent of eggenote of eggenoot om te verskyn om getuienis af te lê.

141. Enigeen is aan 'n misdryf skuldig en strafbaar met 'n boete van hoogstens vyftig pond of met gevangenisstraf van hoogstens ses maande sonder keuse van 'n boete as hy een of ander voordeel of die belofte of aanbod van 'n voordeel aanneem as vergoeding daarvoor dat hy 'n geding tot sekwestrasie van 'n boedel agterweë gelaat of gestaak het of dat hy hom verbind het om so 'n geding agterweë te laat of te staak, of dat hy tot 'n akkoord in 'n insolvente boedel of tot die rehabilitasie van 'n insolvent toegestem of hom nie daarteen verset het nie of dat hy hom verbind het om tot so 'n akkoord of rehabilitasie toe te stem of hom nie daarteen te verset nie, of dat hy die ondersoek van 'n saak betreffende 'n insolvent of 'n insolvente boedel agterweë gelaat het of hom verbind het om dit agterweë te laat of dat hy gegewens betreffende 'n insolvent of 'n insolvente boedel verswyg het of hom verbind het om dit te verswyg.

Aanname van vergoeding vir sekere onwettige handelings of versuim.

142. (1) Enigeen is aan 'n misdryf skuldig en strafbaar met gevangenisstraf van hoogstens drie jaar as hy of voor of na die sekwestrasie van 'n boedel, bate wat tot daardie boedel behoort, verwyder, verberg, wegmaak, daarvoor beskik of ontvang met die bedoeling om 'n beslaglegging kragtens 'n sekwestrasie-order te vrydel of met die bedoeling om die skuldeisers van daardie boedel te benadeel: Met dien verstande dat in 'n geding weens 'n misdryf volgens hierdie sub-artikel so 'n verwydering, verberging, wegmaking, beskikking of ontvangs van bate, wat die vrydeling van so 'n beslaglegging ten gevolge gehad het of wat so 'n beslaglegging kon vrydel het of wat die skuldeisers van daardie boedel benadeel het of kon benadeel het, behoudens teenbewys vermoed word begaan te wees met die bedoeling om, al na die geval, die beslaglegging te vrydel of daardie skuldeisers te benadeel.

Verwydering of verberging van goed om beslaglegging te vrydel of versuim om goed te openbaar.

(2) Enigeen wat goed, wat tot 'n insolvente boedel behoort, in sy besit of bewaring of onder sy beheer het, en wat weet dat die boedel gesekwestreer is en dat die goed daartoe behoort, is aan 'n misdryf skuldig en strafbaar met 'n boete van hoogstens driehonderd pond of met gevangenisstraf van hoogstens een jaar, sonder die keuse van 'n boete, as hy versuim om so gou moontlik die kurator van die boedel kennis te gee van die bestaan van die goed en waar dit is en om dit aan die kurator te oorhandig of dit tot sy beskikking te stel dog behoudens die bepalinge van artikel *drie-en-tagtig*.

(3) Die bepalinge van sub-artikels (1) en (2) is nie van toepassing nie op 'n insolvent met betrekking tot goed wat tot sy eie insolvente boedel behoort.

(4) 'n Versekerde skuldeiser van 'n insolvente boedel wat sy sekuriteit te gelde gemaak het volgens artikel *drie-en-tagtig* en wat versuim het om na skriftelike aansegging die oprings van daardie tegeldemaking oor te betaal volgens voorskrif van sub-artikel (10) van daardie artikel is, afgesien van enige ander misdryf wat hy in verband met daardie oprings mog begaan het, aan 'n misdryf skuldig en strafbaar met die strawwe vermeld in sub-artikel (2).

143. (1) Iemand wat—

(a) lid van 'n vennootskap is of was en wat met betrekking tot goed of die sake van daardie vennootskap of van die insolvente boedel van daardie vennootskap; of

(b) met die beredding van 'n boedel belas is of was en wat met betrekking tot goed of die sake van daardie boedel; of

(c) as dienaar of verteenwoordiger alleen of feitlik goed of die sake van sy baas of prinsipaal beheer of beheer het en wat met betrekking tot daardie goed of tot die sake van sy baas of prinsipaal of van die insolvente boedel van sy vorige baas of prinsipaal,

Strafregtelike aanspreeklikheid van vennote, beredderaars, dienare of verteenwoordigers.

'n handeling verrig of nalaat wat, as hy dit in dergelyke omstandighede met betrekking tot sy eie goed of sake of tot goed wat aan sy insolvente boedel behoort of tot die sake van sy insolvente boedel, verrig of nagelaat het, 'n misdryf volgens hierdie Wet sou uitgemaak het, word geag daardie misdryf te begaan het.

(2) The liability under sub-section (1) of a partner, servant or agent shall not affect the liability under that sub-section or under any other provision of this Act, of another partner or of a servant or agent of the same partnership, or of the employer or principal of the employee or agent who is so liable.

Criminal liability of trustee for neglect of certain duties.

144. If it was the duty of a trustee to submit an account to the Master or to pay a sum of money to the Master or to a creditor, and he failed to submit that account or to pay that sum of money within a period of two months as from the time when that duty arose, he shall (apart from any other offence which he may have committed in connection with such sum of money) be guilty of an offence and liable to a fine not exceeding fifty pounds.

Obstructing trustee.

145. Any person who obstructs or hinders a *curator bonis* appointed under this Act or a trustee or a representative of either in the performance of his functions as such shall be guilty of an offence and liable to a fine not exceeding fifty pounds, or to imprisonment without the option of a fine for a period not exceeding six months.

Evidence of liability incurred by insolvent.

146. Whenever in any criminal proceedings under this Act any liability incurred by an insolvent or the date or time when the liability was incurred, is in issue or relevant to the issue, proof that a claim in respect of that liability has been admitted against the estate of the insolvent in accordance with any provision of this Act shall be sufficient evidence of the existence of the liability and any such liability shall be deemed to have been incurred upon the date or at the time alleged in any document submitted in accordance with any provision of this Act in support of that claim: Provided that the accused or the prosecutor in those proceedings may prove that no such liability or that a lesser or a greater liability was incurred or that it was incurred on a date or at a time other than the date or time so alleged.

Offences committed by insolvent in different provinces may be tried at his place of business or residence.

147. (1) Any court of law which has jurisdiction to try an insolvent in respect of an offence under this Act committed at the place where the insolvent mainly carried on business or resided at the time of the commission of the offence, shall have jurisdiction to try the insolvent in respect of such an offence committed anywhere in the Union.

(2) In sub-section (1) "insolvent" includes a person who is liable under sub-section (1) of section *one hundred and forty-three*.

Deportation of certain persons for certain offences.

148. If a person born elsewhere than in a part of South Africa which has been included in the Union, has been convicted of an offence under this Act or under the Insolvency Act, 1916, and in view of the circumstances of the offence the Minister of Justice deems him to be an undesirable inhabitant of the Union, the said Minister may, by warrant under his hand cause him to be removed from the Union and pending his removal, to be arrested and detained in custody.

Jurisdiction of the Court.

149. (1) The Court shall have jurisdiction under this Act over every debtor and in regard to the estate of every debtor who—

(a) on the date on which a petition for the acceptance of the surrender or for the sequestration of his estate is lodged with the registrar of the Court, is domiciled or owns or is entitled to property situate within the jurisdiction of the Court; or

(b) at any time within twelve months immediately preceding the lodging of the petition ordinarily resided or carried on business within the jurisdiction of the Court:

Provided that when it appears to the Court equitable or convenient that the estate of a person not domiciled in the Union be sequestrated elsewhere, or that the estate of a person over whom it has jurisdiction be sequestrated by another Court within the Union, the Court may refuse or postpone the acceptance of the surrender or the sequestration.

(2) The Court may rescind or vary any order made by it under the provisions of this Act.

Appeal.

150. (1) Any person aggrieved by a final order of sequestration or by an order setting aside an order of provisional sequestration may appeal against such order.

(2) Such appeal shall be noted and prosecuted as if it were an appeal from a judgment or order in a civil suit given by the Court which made such final order or set aside such provisional

(2) Die aanspreeklikheid van 'n vennoot, dienaar of verteenwoordiger kragtens sub-artikel (1) is van geen invloed nie op die aanspreeklikheid, kragtens 'n ander bepaling van hierdie Wet, van 'n ander vennoot of van 'n dienaar of verteenwoordiger van dieselfde vennootskap of van die baas of prinsipaal van die dienaar of verteenwoordiger wat aldus aanspreeklik is.

144. As 'n kurator verplig was om 'n rekening aan die Meester voor te lê of om 'n geldsom aan die Meester of aan 'n skuldeiser te betaal en hy het versuim om daardie rekening voor te lê of om daardie geldsom te betaal binne 'n tydperk van twee maande vanaf die tydstip toe daardie verpligting ontstaan het, dan is hy (afgesien van enige ander misdryf wat hy in verband met daardie geldsom mog begaan het) aan 'n misdryf skuldig en strafbaar met 'n boete van hoogstens vyftig pond.

Strafregtelike aanspreeklikheid van kurators weens versuim van sekere pligte.

145. Iemand wat 'n kragtens hierdie Wet aangestelde *curator bonis* of 'n kurator of 'n verteenwoordiger van die een of die ander by die verrigting van sy werksaamhede as sodanig belemmer of hinder, is aan 'n misdryf skuldig en strafbaar met 'n boete van hoogstens vyftig pond of met gevangenisstraf van hoogstens ses maande sonder keuse van 'n boete.

Belemmering van kurator.

146. Wanneer in 'n strafgeding ingevolge hierdie Wet 'n aanspreeklikheid, deur 'n insolvent aangegaan, of die dag of tyd wanneer die aanspreeklikheid aangegaan is, ter sake dien, dan word die bestaan van daardie aanspreeklikheid voldoende bewys deur die bewys dat 'n vordering op grond van daardie aanspreeklikheid volgens een of ander bepaling van hierdie Wet teen die boedel van die insolvent toegelaat is en word vermoed dat daardie aanspreeklikheid aangegaan is op die dag of tydstip aangegee in een of ander geskrif wat volgens een of ander bepaling van hierdie Wet tot staving van daardie vordering voorgelê is: Met dien verstande dat die beskuldigde of die vervolger in daardie geding kan bewys dat geen sodanige aanspreeklikheid of dat 'n kleiner of groter aanspreeklikheid aangegaan is of dat dit aangegaan is op 'n ander dag of tydstip as die aldus aangegewe dag of tydstip.

Bewys van aanspreeklikheid deur insolvent aangegaan.

147. (1) 'n Geregshof wat bevoeg is om 'n insolvent tereg te stel weens 'n misdryf volgens hierdie Wet, wat begaan is op die plek waar die insolvent vernaamlik besigheid gedrywe het of woonagtig was tydens die begaan van die misdryf, is bevoeg om die insolvent tereg te stel weens 'n sodanige misdryf waar ook al in die Unie begaan.

Misdrywe deur insolvent in verskillende provinsies begaan kan op sy besigheids- of woonplek bereg word.

(2) In sub-artikel (1) omvat „insolvent” iemand wat kragtens sub-artikel (1) van artikel *honderd-drie-en-veertig* aanspreeklik is.

148. As iemand, wat elders gebore is as in 'n deel van Suid-Afrika wat in die Unie opgeneem is, skuldig bevind is aan 'n misdryf volgens hierdie Wet of volgens die „Insolventie Wet, 1916” en die Minister van Justisie hom, met die oog op die omstandighede van die misdryf, as 'n ongewenste inwoner van die Unie beskou, dan kan bedoelde Minister hom kragtens 'n deur die Minister ondertekende lasbrief uit die Unie laat verwyder en in afwagting van sy verwydering laat arresteer en in hegtenis hou.

Deportasie van sekere persone weens sekere misdrywe.

149. (1) Die hof is kragtens hierdie Wet bevoeg met betrekking tot elke skuldenaar en tot die boedel van elke skuldenaar wat—

Bevoegdheid van hof.

(a) op die dag waarop 'n versoekskrif om aanname van die oorgawe of om sekwestrasie van sy boedel, by die griffier van die hof ingedien word, in die regsgebied van die hof gedomisilieer is of die eenaar is van goed of geregtig is op goed wat daarin geleë is; of

(b) te eniger tyd binne die twaalf maande wat aan die indiening van die versoekskrif onmiddellik voorafgaan, gewoonlik woonagtig was of besigheid gedryf het in die regsgebied van die hof:

Met dien verstande dat as dit aan die hof billik of gerieflik voorkom dat die boedel van iemand wat nie in die Unie gedomisilieer is nie, elders gesekwestreer word, of dat die boedel van iemand ten opsigte van wie die hof bevoeg is, deur 'n ander hof in die Unie gesekwestreer word, die hof die aanname van die oorgawe of die sekwestrasie kan weier of uitstel.

(2) Die hof kan elke order wat hy kragtens hierdie Wet uitgevaardig het, vernietig of wysig.

150. (1) Iemand wat homself verongelyk ag deur 'n finale sekwestrasie-order of deur 'n order wat 'n order van voorlopige sekwestrasie vernietig, kan teen daardie order appelleer.

Appel.

(2) So 'n appel moet aangeteken en voortgesit word asof dit 'n appel was van 'n vonnis of order in 'n siviele geding uitgevaardig deur die hof wat daardie finale order uitgevaardig of daardie voorlopige order vernietig het en alle reëls wat op

order, and all rules applicable to such lastmentioned appeal shall *mutatis mutandis*, but subject to the provisions of sub-section (3), apply to an appeal under this section.

(3) When an appeal has been noted (whether under this section or under any other law), against a final order of sequestration, the provisions of this Act shall nevertheless apply as if no appeal had been noted: Provided that no property belonging to the sequestrated estate shall be realized without the written consent of the insolvent concerned.

(4) If an appeal against a final order of sequestration is allowed, the Court allowing such appeal may order the respondent to pay the costs of sequestrating and administering the estate.

Review.

151. Any person aggrieved by any decision, ruling, order, appointment or taxation of the Master or by a decision, ruling or order of an officer presiding at a meeting of creditors may bring it under review by the Court and to that end may apply to the Court by motion, after notice to the Master or to the presiding officer, as the case may be, and to any person whose interests are affected: Provided that if all or most of the creditors are affected, notice to the trustee shall be deemed to be notice to all such creditors; and provided further that the Court shall not re-open any duly confirmed trustee's account otherwise than as is provided in section *one hundred and twelve*.

Master may direct trustee to deliver documents or property or call upon any person to furnish certain information.

152. (1) The Master may at any time direct a trustee to deliver to him any book or document relating or any property belonging to the insolvent estate of which he is trustee.

(2) If at any time after the sequestration of the estate of a debtor and before his rehabilitation, the Master is of the opinion that the insolvent or the trustee of that estate or any other person is able to give any information which the Master considers desirable to obtain, concerning the insolvent, or concerning his estate or the administration of the estate or concerning any claim or demand made against the estate, he may by notice in writing delivered to the insolvent or the trustee or such other person summon him to appear before the Master or before a magistrate or an officer holding the rank of chief or principal clerk mentioned in such notice, at the place and on the date and hour stated in such notice, and to furnish the Master or other officer before whom he is summoned to appear with all the information within his knowledge concerning the insolvent or concerning the insolvent's estate or the administration of the estate.

(3) After having interrogated the person summoned as aforesaid the Master or other officer concerned may deliver to him a written notice to appear again before the Master or other officer at a place and upon a date and hour stated in such notice and to submit to the Master or such other officer any further information or any book or document specified in such notice.

(4) When any person summoned as aforesaid appears before the Master or other officer in question in compliance with a notice issued under sub-section (2) or (3) the Master or such other officer may administer the oath to him and the Master or such other officer and if a person other than the trustee was summoned, also the trustee (or his agent) may interrogate the person summoned in regard to any matter relating to the insolvent or his estate or the administration of the estate.

(5) The provisions of sub-section (2) of section *sixty-five* shall *mutatis mutandis* apply in connection with the production of any book or document or with the interrogation of any person under the preceding provisions of this section.

(6) The provisions of section *sixty-six* shall *mutatis mutandis* apply in connection with a person summoned, and with his interrogation, under this section and the Master or other officer concerned shall, with reference to a person so summoned or with reference to such interrogation, have the powers and immunity conferred upon an officer mentioned in section *sixty-six*.

(7) The provisions of sub-section (7) of section *sixty-five* shall *mutatis mutandis* apply in connection with any person (other than a trustee) who has been summoned under this section for the purpose of furnishing any information: Provided

laasbedoelde appèl van toepassing is, is *mutatis mutandis* dog behoudens die bepalings van sub-artikel (3), van toepassing op 'n appèl kragtens hierdie artikel.

(3) Wanneer 'n appèl aangeteken is (onverskillig of kragtens hierdie artikel of ingevolge 'n ander regsbeplating) teen 'n finale sekwestrasie-order, dan is die bepalings van hierdie Wet nogtans van toepassing asof geen appèl aangeteken was nie: Met dien verstande dat geen goed wat tot die gesekwestreerde boedel behoort, te gelde gemaak kan word nie, sonder skriftelike toestemming van die betrokke insolvent.

(4) As 'n appèl teen 'n finale sekwestrasie-order toegestaan word, kan die hof wat die appèl toestaan, die respondent veroordeel tot betaling van die koste van die sekwestrasie en bereddering van die boedel.

151. (1) Iemand wat homself verongelyk ag deur 'n Revisie. beslissing, beskikking, bevel, aanstelling of taksasie van die Meester of deur 'n beslissing, beskikking of bevel van 'n amptenaar wat by 'n byeenkoms van skuldeisers voorsit, kan dit by die hof in revisie bring en kan te dien einde by die hof by wyse van mosie aansoek doen, na kennisgewing aan die Meester of aan die voorsittende amptenaar, al na die geval, en aan enige ander persoon wie se belange daarmee gemoei is: Met dien verstande dat as al die skuldeisers of die meeste van hulle daarmee gemoei is, kennisgewing aan die kurator as kennisgewing aan al daardie skuldeisers aangemerkt word; en met dien verstande voorts dat die hof nie 'n behoorlik bekragtigde kuratorsrekening kan heropen nie, dan alleen maar volgens voorskrif van artikel *honderd-en-twaalf*.

152. (1) Die Meester kan te eniger tyd 'n kurator gelas Meester kan kurator gelas om geskrifte of goed te oorhandig of enigeen aansê om sekere inligtings te verstrek.

(2) As die Meester te eniger tyd voor die sekwestrasie van 'n boedel van 'n skuldenaar en voor sy rehabilitasie van mening is dat die insolvent of die kurator van daardie boedel of enige ander persoon in staat is om inligtings te verstrek, wat die Meester wenslik ag om te verkry, aangaande die insolvent of aangaande sy boedel of die beheer van die boedel of aangaande 'n vordering of eis teen die boedel ingebring, dan kan hy by skriftelike kennisgewing, aan die insolvent of die kurator of daardie ander persoon oorhandig, hom oproep om voor die Meester of voor 'n magistraat of 'n in daardie kennisgewing vermelde amptenaar wat die rang van hoofklerk of eersteklerk beklee, te verskyn op 'n plek, dag en uur in daardie kennisgewing aangegee, en om aan die Meester of ander amptenaar voor wie hy opgeroep word om te verskyn, al die inligtings te verstrek waarvan hy kennis dra aangaande die insolvent of aangaande die boedel van die insolvent of die beheer van die boedel.

(3) Na ondervraging van die persoon wat soas voormeld opgeroep is, kan die Meester of ander betrokke amptenaar aan hom 'n skriftelike kennisgewing oorhandig dat hy weer voor die Meester of ander amptenaar moet verskyn op 'n plek, dag en uur in daardie kennisgewing aangegee en aan die Meester of daardie ander amptenaar die verdere inligtings of die boek of geskrif in daardie kennisgewing omskrywe, moet verstrek.

(4) Wanneer 'n soas voormeld opgeroepe persoon aan 'n kragtens sub-artikel (2) of (3) uitgevaardigde kennisgewing gevolg gee en voor die Meester of ander betrokke amptenaar verskyn, dan kan die Meester of daardie ander amptenaar aan hom die eed oplê, en die Meester of daardie ander amptenaar, en as 'n ander persoon as die kurator opgeroep is, dan ook die kurator (of sy verteenwoordiger), kan die opgeroepe persoon ondervra omtrent enige saak wat betrekking het op die insolvent of sy boedel of die beheer van die boedel.

(5) Die bepalings van sub-artikel (2) van artikel *vyf-en-sestig* is *mutatis mutandis* van toepassing in verband met die oorlegging van 'n boek of geskrif of met die ondervraging van iemand kragtens voorgaande bepalings van hierdie artikel.

(6) Die bepalings van artikel *ses-en-sestig* is *mutatis mutandis* van toepassing in verband met 'n kragtens hierdie artikel opgeroepe persoon en met sy ondervraging en die Meester of ander betrokke amptenaar het met betrekking tot 'n aldus opgeroepe persoon of met betrekking tot daardie ondervraging die bevoegdheid en vrydom van aanspreeklikheid wat verleen is aan 'n amptenaar vermeld in artikel *ses-en-sestig*.

(7) Die bepalings van sub-artikel (7) van artikel *vyf-en-sestig* is *mutatis mutandis* van toepassing in verband met 'n ander persoon as 'n kurator wat kragtens hierdie artikel opgeroep is om inligtings te verstrek: Met dien verstande

that if there are no assets in the estate in question sufficient to pay the witness fees in question, those fees shall be paid by the State.

Fees of office and certain costs.

153. (1) The Master shall recover in respect of the several matters mentioned in the Third Schedule to this Act the fees therein specified.

(2) Any expenses incurred by the Master or by an officer who is to preside or presides or has presided at a meeting of the creditors of an insolvent estate in the protection of the assets of an insolvent estate or in carrying out any provision of this Act shall, unless the Court otherwise orders, be regarded as part of the costs of the sequestration of that estate.

Custody of documents. Admissibility of copies or certificates.

154. (1) The Master shall have the custody of all documents relating to insolvent estates.

(2) If there is endorsed upon or attached to any document or record a certificate purporting to have been signed by a person describing himself as Master, wherein he describes the nature of the document or record and states that it relates to a specified insolvent or insolvent estate, that document or record shall on its mere production by any person *prima facie* be deemed to be what the certificate describes it to be.

(3) Any document or record upon which there is endorsed or to which there is attached a statement purporting to have been signed by a person describing himself as Master, wherein he certifies that the document or record is a true copy of or extract from a document or record relating to a specified insolvent or insolvent estate, and wherein he describes the nature of the original document or record, shall on its mere production by any person be as admissible in evidence in any court of law and be of the same force and effect as the original document or record would be if it bore or had attached to it the certificate mentioned in sub-section (2).

(4) A certificate, purporting to have been signed by a person describing himself as Master, stating that the estate of a person or partnership mentioned therein was sequestrated on a date therein specified, or that an insolvent named therein has or has not been rehabilitated, or that any person named therein has or has not complied with any particular requirement of this Act, shall upon its mere production by any person be received as *prima facie* evidence of the facts therein stated.

Destruction of Documents.

155. (1) After six months have elapsed as from the confirmation by the Master of the final trustees' account in any insolvent estate, the trustee may, with the consent in writing of the Master, destroy all books and documents in his possession relating to the estate.

(2) After five years have elapsed as from the rehabilitation of an insolvent the Master may destroy all records in his office relating to the estate of that insolvent.

(3) This section shall apply to all insolvent estates which have been finally liquidated or are in course of liquidation at the commencement of this Act.

Insurer obliged to pay third party's claim against insolvent.

156. Whenever any person (hereinafter called the insurer) is obliged to indemnify another person (hereinafter called the insured) in respect of any liability incurred by the insured towards a third party, the latter shall, on the sequestration of the estate of the insured, be entitled to recover from the insurer the amount of the insured's liability towards the third party but not exceeding the maximum amount for which the insurer has bound himself to indemnify the insured.

Formal defects.

157. (1) Nothing done under this Act shall be invalid by reason of a formal defect or irregularity, unless a substantial injustice has been thereby done, which in the opinion of the Court cannot be remedied by any order of the Court.

(2) No defect or irregularity in the election or appointment of a trustee shall vitiate anything done by him in good faith.

Regulations.

158. The Governor-General may from time to time make regulations not inconsistent with the provisions of this Act, prescribing—

- (a) the procedure to be observed in any Master's office in connection with insolvent estates;
- (b) the form of, and manner of conducting proceedings under this Act;
- (c) the manner in which fees payable under this Act shall be paid and brought to account.

Short title and date of commencement.

159. This Act shall be called the Insolvency Act, 1936, and shall come into operation on the first day of July, 1936.

dat as daar geen voldoende bate in die betrokke boedel is om die betrokke getuieloon te betaal nie, daardie loon deur die Staat betaal moet word.

153. (1) Die Meester moet met betrekking tot die aangeleenthede vermeld in die Derde Bylae tot hierdie Wet, die daarin aangegewe leges invorder. Leges en sekere koste.

(2) Alle onkoste deur die Meester of deur 'n amptenaar wat by 'n byeenkoms van die skuldeisers van 'n insolvente boedel sal voorsit of voorgesit het, gemaak tot beskerming van die bate van 'n insolvente boedel of tot uitvoering van 'n bepaling van hierdie Wet, word beskou as 'n deel van die koste van die sekwestrasie van daardie boedel, tensy die hof anders gelas.

154. (1) Die Meester is belas met die bewaring van alle geskifte wat op insolvente boedels betrekking het. Bewaring van stukke. Toelaatbaarheid van kopieë of sertifikate

(2) As op 'n geskrif of verslag aangeteken is of daaraan geheg is 'n sertifikaat wat heet onderteken te wees deur iemand wat homself Meester noem, waarin hy die aard van die geskrif of verslag omskrywe en verklaar dat dit op 'n genoemde insolvent of insolvente boedel betrekking het, dan word daardie geskrif of verslag by sy blote vertoning, deur wie ook al, *prima facie* geag te wees wat die sertifikaat verklaar dat dit is.

(3) 'n Geskrif of verslag waarop aangeteken is waaraan geheg is 'n verklaring wat heet onderteken te wees deur iemand wat homself Meester noem, waarin hy sertifiseer dat die geskrif of verslag 'n juiste afskrif of uittreksel is van 'n geskrif of verslag wat op 'n genoemde insolvent of insolvente boedel betrekking het en waarin hy die aard van die oorspronklike geskrif of verslag omskrywe, is by sy blote vertoning deur wie ook al, in enige geregshof ewe toelaatbaar as bewysstuk en ewe geldig as wat die oorspronklike geskrif of verslag sou wees as die sertifikaat, bedoel in sub-artikel (2), daarop aangeteken of daaraan geheg was.

(4) 'n Sertifikaat wat heet onderteken te wees deur iemand wat homself Meester noem, waarin verklaar word dat die boedel van 'n daarin genoemde persoon of vennootskap op 'n daarin aangegewe dag gesekwestreer is, of dat 'n daarin genoemde insolvent al dan nie gerehabiliteer is, of dat 'n daarin genoemde persoon al dan nie voldoen het aan een of ander vereiste van hierdie Wét, word by sy blote vertoning, deur wie ook al, ontvang as bewys *prima facie* van die daarin beweerde feite.

155. (1) Na verloop van ses maande vanaf die bekragting, deur die Meester, van die finale kuratorsrekening in 'n insolvente boedel, kan die kurator met die skriftelike toestemming van die Meester alle boeke en geskifte in sy besit, wat op die boedel betrekking het, vernietig. Vernietiging van stukke.

(2) Na verloop van vyf jaar vanaf die rehabilitasie van 'n insolvent kan die Meester alle stukke in sy kantoor, wat op die boedel van daardie insolvent betrekking het, vernietig.

(3) Hierdie artikel is van toepassing op alle insolvente boedels wat finaal gelikwideer of waarvan die likwidasië nog aan die gang is by die inwerkingtreding van hierdie Wet.

156. Wanneer iemand (hieronder die versekeraar genoem) verplig is om iemand anders (hieronder die versekerde genoem) skadeloos te stel weens een of ander aanspreeklikheid wat die versekerde teenoor 'n derde party opgeloopt het, dan is laasbedoelde by sekwestrasie van die boedel van die versekerde geregtig om van die versekeraar in te vorder die bedrag van die aanspreeklikheid van die versekerde teenoor die derde party, dog nie meer as die maksimum-bedrag waarvoor die versekeraar homself tot skadeloosstelling van die versekerde verbind het. Versekeraar verplig tot betaling van vordering van derde party teen insolvent.

157. (1) Geen verrigting ingevolge hierdie Wet is weens 'n formele gebrek of onreëlmatigheid ongeldig nie, tensy daardeur 'n aanmerklike onreg aangedaan is wat volgens die oordeel van die hof nie deur 'n order van die hof herstel kan word nie. Formele gebreke.

(2) Geen gebrek of onreëlmatigheid by die verkiesing of aanstelling van 'n kurator maak ongeldig wat hy te goeder trou verrig het nie.

158. Die Goewerneur-generaal kan van tyd tot tyd regulasies uitvaardig wat nie met die bepalinge van hierdie Wet in stryd is nie, waarin voorgeskrywe word— Regulasies.

(a) die prosedure wat in 'n Meesterskantoor in verband met insolvente boedels gevolg moet word;

(b) die vorm en wyse van uitvoering van verrigtings ingevolge hierdie Wet;

(c) die wyse waarop leges wat ingevolge hierdie Wet verskuldig is, betaal en verantwoord moet word.

159. Hierdie Wet heet die Insolvensiewet, 1936, en tree op die eerste dag van Julie 1936 in werking. Kort titel en dag van inwerking-treding.

First Schedule.

FORMS.

FORM A.

Notice of Surrender of a Debtor's Estate (Section 4 (1)).

Notice is hereby given that application will be made to the
 Division of the Supreme Court on
 the day of 19
 at o'clock in the forenoon or as soon thereafter as the matter
 can be heard, for the acceptance of the surrender of the estate of*

 of and that a statement of his affairs will lie
 for inspection at the office of the Master of the Supreme Court at †
 (and at the office of) for
 a period of fourteen days as from the day of
 19.....

.....
 Attorney for.....

..... 19.....

* Here insert the name in full of the debtor and his occupation and address, and if the debtor is a partnership, its style or firm and the name in full and address of every partner, other than a partner en commandite or a special partner as defined in the Cape Act No. 24 of 1861 or the Natal Law No. 1 of 1865.

† If the statement of the debtor's affairs is to lie for inspection only in a Master's office, delete the words in brackets.

FORM B.

Statement of Debtor's Affairs (Sections 4 (3) and 16).

Balance Sheet of*

| <i>Liabilities.</i> | £ s. d. | <i>Assets.</i> | £ s. d. |
|---------------------------------------|---------|--|---------|
| Debts due as per Annexure IV. | | Immovable property as per Annexure I | |
| | | Movable property, furniture, stock-in-trade etc. as per Annexure II. | |
| | | Outstanding claims, etc., as per Annexure III. | |
| | | Deficiency. | |
| Total _____ | | Total _____ | |

* Here insert the name in full of the debtor.

ANNEXURE I.

Immovable Property.

| | Description of property. | Situation and extent. | Mortgages thereon. | Estimated values. |
|---|--------------------------|-----------------------|--------------------|-------------------|
| Property situate in the Union | | | | £ s. d. |
| Property situate elsewhere | | | | |
| | | | Total | |

ANNEXURE II.

Any Movable Property whatsoever which is not included in Annexure III or Annexure V.

| | Description of property. | Estimated values. |
|---|--------------------------|-------------------|
| Property situate in the Union | | £ s. d. |
| Property situate elsewhere | | |
| | Total | |

Note.—Any merchandise mentioned in the foregoing statement shall be valued at its cost price or at its market value at the time of the making of the affidavit verifying this statement, whichever is the lower, and the statement shall be supported by detailed stock sheets relating to such merchandise.

Eerste Bylae.

FORMULIERE.

FORMULIER A.

Kennisgewing van Oorgawe van 'n Skuldenaar se Boedel (Artikel 4 (1)).
 Hiermee word kennis gegee dat op die dag van om uur voormiddag, of so spoedig daarna as wat die saak verhoor kan word, by die Afdeling van die Hooggeregshof aansoek gedoen sal word om aanname van die oorgawe van die boedel van van en dat sy vermoëstaat op die kantoor van die Meester van die Hooggeregshof te † (en op die kantoor van ter insage sal lê gedurende 'n termyn van veertien dae vanaf die dag van 19.....

Prokureur van.....

..... 19.....

* Vul hier in die naam voluit van die skuldenaar en sy beroep en adres en as die skuldenaar 'n vennootskap is, sy firmanaam en die naam voluit en adres van elke vennoot, behalwe 'n kommanditêre vennoot of 'n „special partner” soas omskrywe in die Kaapse Wet No. 24 van 1861 of die Natalse Wet No. 1 van 1865.

† As die skuldenaar se vermoëstaat alleen in 'n Meesterskantoor ter insage sal lê, skrap dan die woorde tussen hakies.

FORMULIER B.

Vermoëstaat van Skuldenaar (Artikels 4 (3) en 16).

Balansstaat van *

| <i>Skulde.</i> | £ s. d. | <i>Bate.</i> | £ s. d. |
|--|---------|---|---------|
| Skulde soas aangegee in Aanhangel IV | | Onroerende goed soas aangegee in Aanhangel I | |
| | | Roerende goed soas aangegee in Aanhangel II | |
| | | Uitstaande vorderings, ens. soas aangegee in Aanhangel III. | |
| | | Tekort | |
| Totaal | | Totaal | |

* Vul hier in naam van skuldenaar voluit.

AANHANGSEL I.

Onroerende Goed.

| | Beskrywing van goed. | Ligging en grootte. | Verbande daarop. | Geskatte waarde. |
|---------------------------|----------------------|---------------------|------------------|------------------|
| | | | | £ s. d. |
| In die Unie geleë goed | | | | |
| Elders geleë goed | | | | |
| | | | Totaal | |

AANHANGSEL II.

Alle roerende goed hoegenaamd wat nie in Aanhangel III of Aanhangel V voorkom nie.

| | Beskrywing van goed. | Geskatte waarde. |
|--------------------------------|----------------------|------------------|
| | | £ s. d. |
| In die Unie geleë goed | | |
| Elders geleë goed | | |
| | Totaal | |

Aanmerking.—Alle handelsware, in voorgaande staat aangegee, moet gewaardeer word teen hul kosteprys of teen hul markwaarde op die tydstip waarop die beëdigde verklaring tot bevestiging van hierdie staat afgelê word, na gelang die een of die ander laer is, en die staat moet gestaaf wees deur gespesifiseerde voorraadstate wat op daardie handelsware betrekking het.

ANNEXURE III.

Outstanding Claims, Bills, Bonds and other Securities.

| | Name and residential and postal address of the debtor. | Particulars of claim. | Estimated amount good. | Estimated amount bad or doubtful. |
|-----------------|--|-----------------------|------------------------|-----------------------------------|
| In the Union .. | | | £ s. d. | £ s. d. |
| Elsewhere.. .. | | | | |
| | | Total .. | | |

ANNEXURE IV.

List of Creditors.

| Name and address of creditor. | Nature and value of security for claim. | Nature of claim. | Amount of Claim. |
|-------------------------------|---|------------------|------------------|
| | | | £ s. d. |
| | | Total .. | |

ANNEXURE V.

Movable Assets Pledged, Hypothecated, Subject to a Right of Retention or under Attachment in Execution of a Judgment.

| Description of asset. | Estimated value of asset. | Nature of charge on asset. | Amount of debt to which charge relates. | Name of creditor in whose favour charge is. |
|-----------------------|---------------------------|----------------------------|---|---|
| | | | | |

ANNEXURE VI.

Enumeration and description of every book in use by the debtor at time of notice of surrender or sequestration, or at the time when he ceased carrying on business.

.....

.....

.....

ANNEXURE VII.

Detailed Statement of Causes of Debtor's Insolvency.

.....

.....

.....

ANNEXURE VIII.

Personal Information.

State whether the debtor is married, widowed or divorced.....

If the debtor is or was married, state—

(a) name or names of spouse or spouses..... ; and

(b) whether the debtor is or was married in or without community of property.....

State the debtor's race and nationality.....

State the debtor's place of birth.....

Was the debtor's estate or the estate of a partnership in which the debtor is or was a partner previously sequestrated or placed in bankruptcy, whether in the Union or elsewhere ?

If the preceding answer is in the affirmative, state—

(a) whether debtor's own estate or his partnership's estate was (i) sequestrated ; or (ii) placed in bankruptcy.....

(b) the place where and the date when that estate was sequestrated or placed in bankruptcy.....

AANHANGSEL III.

Inskulde, Wissels, Verbande en ander Sekuriteite.

| | Naam, woon- en posadres van skuldenaar. | Besonderhede van inskuld. | Geskatte bedrag inbaar. | | Geskatte bedrag oninbaar of twyfelagtig. | |
|----------------|---|---------------------------|-------------------------|-------|--|-------|
| | | | £ | s. d. | £ | s. d. |
| In die Unie .. | | | | | | |
| Elders | | | | | | |
| | | Totaal .. | | | | |

AANHANGSEL IV.

Lys van Skuldeisers.

| Naam en adres van skuldeiser. | Aard en waarde van sekuriteit vir vordering. | Aard van Vordering. | Bedrag van Vordering. | |
|-------------------------------|--|---------------------|-----------------------|-------|
| | | | £ | s. d. |
| | | | | |
| | | Totaal .. | | |

AANHANGSEL V.

Roerende Bate wat Verpand, met Hipoteek Beswaar, aan 'n Retensiereg Onderworpe of tot Uitvoering van 'n Vonnis met Beslag belê is.

| Beskrywing van bate. | Geskatte waarde van bate. | Aard van beswaring van bate. | Bedrag van skuld waarvoor bate beswaar is. | Naam van skuldeiser ten gunste van wie bate beswaar is. |
|----------------------|---------------------------|------------------------------|--|---|
| | | | | |

AANHANGSEL VI.

Opgawe en beskrywing van elke boek in gebruik van skuldenaar op tydstip van kennisgewing van boedeloorgawe of sekwestrasie of toe hy opgehou het om besigheid te dryf.

.....

.....

.....

AANHANGSEL VII.

Uitvoerige Beskrywing van Oorsake van Skuldenaar se Insolvensie.

.....

.....

AANHANGSEL VIII.

Persoonlike Gegewens.

Vermeld of skuldenaar getroud, wewenaar of weduwee of geskeie is

As skuldenaar getroud is of was, vermeld—

(a) naam of name van eggenoot of eggenote.....

(b) of die skuldenaar in of buite gemeenskap van goedere getroud is of was.....

Vermeld skuldenaar se ras en nasionaliteit.....

Vermeld skuldenaar se geboorteplek.....

Was die skuldenaar se boedel of die boedel van 'n vennootskap waarvan die skuldenaar 'n vennoot is of was, voorheen gesekwestreer of bankrot verklaar, hetsy in die Unie of elders ?.....

As voorgaande antwoord bevestigend is, vermeld—

(a) of skuldenaar se eie boedel dan wel die boedel van sy vennootskap (i) gesekwestreer ; of (ii) bankrot verklaar is.....

(b) waar en wanneer daardie boedel gesekwestreer of bankrot verklaar is.....

(c) whether the debtor has been rehabilitated or his estate released; if so when.....

The foregoing balance sheet and statements shall be verified by an affidavit in the subjoined form, made by the debtor or by the person who on behalf of the debtor presented the petition tendering the surrender of the debtor's estate, or who is the representative of the debtor or his estate.

AFFIDAVIT.

I, declare under oath*
 solemnly and sincerely declare that to the best of my knowledge and belief the statements contained in the foregoing balance sheet and the Annexures thereto are true and complete, and that every estimated amount therein contained is fairly and correctly estimated.

Signature of declarant.....
 Sworn

* before me on the.....
 Solemnly declared

day of..... at

Commissioner of Oaths.

* Delete inappropriate words.

FORM C.

Affidavit for the Proof of any Claim other than a Claim based on a Promissory Note or other Bill of Exchange (Section 44 (4)).

In the Insolvent Estate of.....
 Name in full of creditor.....
 Address in full.....
 Total amount of claim..... £.....

I, declare under oath
 solemnly and sincerely declare*

(1) That....., whose estate has been sequestrated, was at the date of sequestration, and still is, indebted to..... in the sum of..... for.....

(2) That the said debt arose in the manner and at the time set forth in the account hereunto annexed.

(3) That no other person besides the said..... is liable (otherwise than as surety) for the said debt on any part thereof.

(4) That I have the said..... not, nor has any

other person, to my knowledge on $\frac{\text{my}}{\text{his}}$ * behalf received any security for the said debt or any part thereof, save and except †.....

Signature of declarant.....

Sworn * before me on the..... day of
 Solemnly declared

..... at

Commissioner of Oaths.

* Strike out inappropriate words according to the facts of the case.
 † Here insert nature, particulars and value, of mortgage, pledge or other security.

FORM D.

Affidavit for the Proof of a Claim based on a Promissory Note or other Bill of Exchange. (Section 44 (4)).

In the Insolvent Estate of.....
 Name in full of creditor.....
 Address in full.....
 Total amount of claim.....

I, declare under oath
 solemnly and sincerely declare*

(1) That....., whose estate has been sequestrated, was on the date of sequestration, and still is, indebted to..... in the sum of....., by virtue

of the following $\frac{\text{promissory note}}{\text{bill of exchange}}$ *

(e) of die skuldenaar gerehabiliteer of sy boedel vrygegee is, en indien van wel, wanneer.....

Die voorgaande balansstaat en verklarings moet bevestig word deur 'n beëdigde verklaring in onderstaande vorm, afgelê deur die skuldenaar of deur die persoon wat namens die skuldenaar die versoekskrif ingedien het waarin die oorgawe van die skuldenaar se boedel aangebied word of wat die skuldenaar of sy boedel verteenwoordig.

BEËDIGDE VERKLARING.

Ekverklaar onder eed
plegtig en na waarheid

dat die bewerings in die voorgaande balansstaat en sy aanhangsels vir sover as wat ek weet en glo waar en volledig is en dat elke daarin voorkomende geskatte bedrag billik en juis geskat is.

Handtekening van Verklaarder.

Voor my te beëdig
plegtig verklaar

op die dag van

Kommissaris van Ede.

* Skrap wat nie toepaslik is nie.

FORMULIER C.

Beëdigde Verklaring tot Bewys van 'n Ander Vordering as 'n Vordering op Grond van 'n Promesse of ander Wissel (Artikel 44 (4)).

In die Insolvente Boedel van

Naam voluit van skuldeiser.....

Adres voluit

Totale bedrag van vordering..... £.....

Ekverklaar onder eed
plegtig en na waarheid

(1) Dat....., wie se boedel gesekwestreer is, op die dag van die sekwestrasie aan.....die som van.....geskuld het (en dit nou nog skuld) weens.....

(2) Dat voormelde skuld ontstaan het op die wyse en tydstip vermeld in aangehegte rekening.

(3) Dat niemand anders as genoemde.....vir voormelde skuld of 'n deel daarvan aanspreeklik is nie (behalwe as borg).

(4) Dat nóg ek * nóg, sover ek weet,

iemand anders namens my* sekuriteit vir voormelde skuld of 'n

deel daarvan ontvang het nie behalwe†.....

Handtekening van verklaarder.

Voor my te beëdig
plegtig verklaar

op die dag van

Kommissaris van Ede.

* Skrap wat nie toepaslik is nie, al na die feite van die geval.

† Vul hier in die aard, besonderhede en waarde van verband, pand of ander sekuriteit.

FORMULIER D.

Beëdigde Verklaring tot Bewys van 'n Vordering op Grond van 'n Promesse of ander Wissel. (Artikel 44 (4).)

In die Insolvente Boedel van.....

Naam voluit van skuldeiser.....

Adres voluit.....

Totale bedrag van vordering.....

Ekverklaar onder eed
plegtig en na waarheid*

(1) Dat.....wie se boedel gesekwestreer is, op die dag van die sekwestrasie aan.....die som van.....geskuld het (en dit nou nog

skuld) op grond van die volgende promesse :
wissel.

| Date of note or bill. | Name of maker or drawer. | Name of acceptor. | Name of person to whom payable. | Date when payable. | Name of endorser. | Amount. |
|-----------------------|--------------------------|-------------------|---------------------------------|--------------------|-------------------|---------|
| | | | | | | |

- (2) That the said debt arose in the manner and at the time set forth in the account hereunto annexed.
- (3) That I have the said..... has* not, nor has any other person to my knowledge on ^{my}/_{his*} behalf received any security for the said debt or any part thereof, save and except†.....
- (4) That besides the said.....one..... mentioned above, is liable ^{to me}/_{the said.....*} as..... of the said ^{note}/_{bill*}, as aforesaid.
- (5) That the said ^{note}/_{bill*} is in all respects genuine and valid.

Signature of declarant.....

S worn
Solemnly declared* before me on the.....day of
.....at.....

.....
Commissioner of Oaths.

*Strike out inappropriate words, according to the facts of the case.
†Here insert nature, particulars and value of mortgage, pledge or other security.

Second Schedule.

TARIFF A.

Deputy-Sheriff's Fees (section 19 (5)).

| | £ | s. | d. |
|---|----|----|----|
| For the attachment of movable property on one set of premises, from 10s. 6d. to | 1 | 1 | 0 |
| For the attachment of movable property on each further set of premises beyond the first, 5s. to | 10 | 6 | |
| For making of an inventory, per 100 words, or portion thereof | 5 | 0 | |
| For every copy thereof, if necessary, per 100 words, or portion thereof | 1 | 0 | |
| For assistance (if necessary) in making inventory: | | | |
| (a) if within 3 miles from the deputy-sheriff's office per day (inclusive) | 10 | 6 | |
| (b) if beyond that distance per day (inclusive) | 1 | 1 | 0 |
| For notice of attachment of movable property, if necessary | 5 | 0 | |
| For each separate possession (as defined in the rules for the construction of this tariff) per day or portion thereof: a reasonable inclusive fee not exceeding | 10 | 6 | |
| For removal and storage: the necessary costs thereof. | | | |
| For herding and tending of livestock: the necessary costs thereof, and in addition thereto, a commission of 1½ per cent. of the value of the livestock. | | | |
| Travelling allowance per mile or fraction thereof | 1 | 0 | |
| If the deputy-sheriff is necessarily accompanied by an officer or assistant, additional travelling allowance may be charged at half the above rate. | | | |
| For any work necessarily done by or on behalf of the deputy-sheriff in performing his duties under section <i>nineteen</i> of the Act, for which no provision is made in this tariff: an amount to be determined by the Master. | | | |

Rules for the Construction of the Tariff and the Guidance of the Deputy-Sheriff.

- (1) In the Tariff "possession" means the continuous and necessary presence on the premises in question for the period in respect of which possession is charged of a person employed and paid by the deputy-sheriff for the sole purpose of retaining possession.
- (2) When a charge is made for possession of any property, no charge shall be allowed for herding and tending of livestock if one and the same person could render both services.
- (3) If there are more ways than one of doing any particular act, the least expensive way shall be adopted unless there is some reasonable objection thereto.
- (4) No travelling allowance shall be charged unless it was necessary for the deputy-sheriff to go beyond a distance of three miles from his office; but when any such allowance is payable, it shall be paid for the actual distance travelled in going from and returning to the office.

| Datum van promesse of wissel. | Naam van onder-tekenaar of trekker. | Naam van akseptant. | Naam van gereg-tigde. | Datum waarop betaal-baar. | Naam van endos-seerder. | Bedrag. |
|-------------------------------|-------------------------------------|---------------------|-----------------------|---------------------------|-------------------------|---------|
| | | | | | | |

(2) Dat voormelde skuld ontstaan het op die wyse en tydstep vermeld in aangehegte rekening.

(3) Dat nóg ek genoemde.....* nóg, sover ek weet, iemand anders namens my sekuriteit vir voormelde skuld of 'n deel daarvan ontvang het nie, behalwe†.....

(4) Dat afgesien van genoemde.....ene..... hierbo vermeld, teenoor my genoemde.....* aanspreeklik is as.....van voormelde promesse, soas hierbo. wissel*

(5) Dat bedoelde promesse in alle opsigte eg en geldig is. wissel*

Handtekening van verklaarder.....

Voor my te..... beëdig op die..... plegtig verklaar*

dag van.....

Kommissaris van Ede.

*Skrap wat nie toepaslik is nie, al na die feite van die geval.

†Vul hier in die aard, besonderhede en waarde van verband, pand of ander sekuriteit.

Tweede Bylae.

TARIEF A.

Foote van Onderbalju (artikel 19 (5).)

| | £ | s. | d. |
|---|----|----|----|
| Vir beslaglegging op roerende goed op een perseel van 10s. 6d. tot | 1 | 1 | 0 |
| Vir beslaglegging op roerende goed op elke verdere perseel na die eerste, van 5s. tot | 10 | 6 | |
| Vir opmaak van 'n inventaris, per 100 woorde of 'n deel daarvan | 5 | 0 | |
| Vir elke afskrif daarvan, indien nodig, per honderd woorde of 'n deel daarvan | 1 | 0 | |
| Vir hulp, indien nodig, by die opmaak van 'n inventaris— | | | |
| (a) indien binne 3 myl van die onderbalju se kantoor, per dag (alles inbegrepe) | 10 | 6 | |
| (b) indien verder, per dag (alles inbegrepe) | 1 | 1 | 0 |
| Vir kennisgewing van beslaglegging op roerende goed, indien nodig | 5 | 0 | |
| Vir elke afsonderlike besit (soas omskrywe in die reëls vir die toepassing van hierdie tarief), per dag of deel van 'n dag: 'n redelike alles-insluitende fooi van nie meer as | 10 | 6 | |
| Vir vervoer en berging: die nodige koste daarvan. | | | |
| Vir oppas van vee: die nodige koste daarvan en buitendien 'n kommissie van 1½ persent van die waarde van die vee. | 1 | 0 | |
| 'n Reistoelae per myl of 'n deel daarvan | | | |
| As 'n amptenaar of helper die onderbalju noodsaaklik moet vergesel, dan kan vir hom 'n verdere reistoelae bereken word teen die helfte van voormelde skaal. | | | |
| Vir alle werk deur of namens die onderbalju noodsaaklik verrig tot nakoming van sy verpligtings ingevolge artikel <i>negentien</i> van die Wet, waarin hierdie tarief nie voorsien nie: 'n bedrag deur die Meester vas te stel. | | | |

Reëls vir die toepassing van die Tarief en as Leidraad vir die Onderbalju.

- (1) In die Tarief beteken „besit” die voortdurende en nodige aanwesigheid op die betrokke perseel, gedurende die tydperk waarvoor „besit” in rekening gebring word, van iemand wat deur die onderbalju gehuur en betaal is uitsluitend om in besit te bly.
- (2) Wannער besit van een of ander goed in rekening gebring word, dan mag geen loon vir oppas van vee in rekening gebring word nie, as een en dieselfde persoon albei dienste kon verrig het.
- (3) As 'n bepaalde handeling op meer as een wyse verrig kan word, moet die goedkoopste wyse toegepas word, tensy 'n redelike beswaar daarteen bestaan.
- (4) Geen reistoelae mag in rekening gebring word nie, tensy die onderbalju noodsaaklik verder as drie myl van sy kantoor af moes gaan; maar as so 'n toelae verskuldig is, word dit betaal vir die werklik afgelegde afstand vanaf die kantoor tot weer terug daarheen.

- (5) No charge shall be made for the cost of any transport, railway fare, etc., in addition to a charge for travelling allowance.
- (6) If more services than one can be performed on the same journey, the distance to the first place of service may be brought into account only once, and shall be apportioned equally to the respective services; and the distance from the first place of service to the next place of service shall similarly be apportioned equally to the remaining services, and so forth.
- (7) The deputy-sheriff may not charge for an inventory for his own use.
- (8) If the execution of a judgment has been stayed by publication of notice of surrender or by sequestration after an inventory has been made, for the purpose of the execution, no charge shall be made for a second inventory of the same goods. The deputy-sheriff's fees for making the inventory shall be charged to the insolvent estate in question, according to the tariff, and not to the execution creditor, unless the estate is unable to pay those fees.
- (9) The deputy-sheriff may pay rent, if necessary for premises required for the storage of goods attached, for a period of one month or such longer period as the Master shall authorize.
- (10) Every question arising under or relative to the tariff shall be determined by the Master.

TARIFF B.

Remuneration of Trustee (section 63).

| | |
|--|--------------|
| Upon the proceeds of movable property (other than shares or similar securities) sold, or upon the amount collected under promissory notes or book debts, or as rent, interest, or other income | 5 per cent. |
| Upon the proceeds of immovable property, shares and similar securities sold, life insurance policies and mortgage bonds recovered: | |
| Upon the first £5,000 | 2½ per cent. |
| Upon any amount in excess of the first £5,000 | 1½ per cent. |
| Upon cash in the estate | 1 per cent. |
| If the total remuneration of a trustee under this tariff is less than £40 in all, he shall be entitled, up to that amount, to remuneration at the rate of 5 per cent. on the value of all the assets of the estate, with a minimum of £5 5s. | |

Remuneration of Curator Bonis and Provisional Trustee.

A reasonable remuneration to be determined by the Master, not to exceed the rates of remuneration of a trustee under this tariff.

Third Schedule.

MASTER'S FEES OF OFFICE (SECTION 153).

| | £ | s. | d. |
|---|----|-----------|----|
| For every certificate under the hand of the Master | 5 | 0 | |
| For every report submitted by the Master, an amount in the discretion of the Master, but subject to taxation by the Court, and not less than | 10 | 0 | |
| For inspection of documents in any one estate, excepting by or on behalf of a trustee | 2 | 0 | |
| For binding documents in each estate according to the size of the estate, in the discretion of the Master from 7s. to | 1 | 10 | 0 |
| For taxing a trustee's remuneration or a bill of costs (but not a Deputy-Sheriff's account) on every one pound or fraction of a pound of the amount taxed | 1 | 0 | |
| Upon the assets in an insolvent estate available for distribution among creditors: | | | |
| Upon the first £5,000: ¼ per cent, with a minimum of £1. | | | |
| Upon any amount in excess of the first £5,000: ½ per cent. | | | |
| For extracts or copies of documents made or certified in the office of a Master: | | | |
| (a) If the document has been certified by the Master, in addition to the fee mentioned in the first item of this Schedule: | | | |
| For each one hundred words (or part thereof) exceeding the first one hundred words | 1 | 0 | |
| (b) If the document has not been certified by the Master: | | | |
| For the first hundred words | 2 | 0 | |
| For each hundred words (or part thereof) exceeding the first hundred words | 1 | 0 | |
| On any amount paid by the trustee into the Guardians' Fund, for account of creditors: | 5 | per cent. | |

- (5) Geen koste van transport, spoorgeld, ens. mag benewens 'n reistoelae in rekening gebring word nie.
- (6) As meer as een diens op dieselfde reis verrig kan word, dan kan die afstand na die eerste diensplek net eenmaal in rekening gebring word en moet gelykop oor die betrokke dienste omgeslaan word. Die afstand van die eerste diensplek tot by die volgende diensplek moet op gelyke wyse gelykop oor die orige dienste omgeslaan word en so voort.
- (7) Die onderbalju mag nie 'n inventaris vir sy eie gebruik in rekening bring nie.
- (8) As die tenuitvoerlegging van 'n vonnis gestaak is deur die publikasie van 'n kennisgewing van boedeloorgawe of deur sekwestrasie nadat 'n inventaris opgemaak is na aanleiding van die tenuitvoerlegging, dan kan die opmaak van 'n tweede inventaris nie in rekening gebring word nie. Die onderbalju se fooie vir die opmaak van die inventaris moet teen die betrokke insolvente boedel in rekening gebring word en nie teen die eksekusie-skuldeiser nie, tensy die boedel nie daardie fooie kan betaal nie.
- (9) Die onderbalju kan, indien nodig, huur betaal vir die bewaring van in beslag genome goed gedurende 'n tydperk van 'n maand of so 'n langer tydperk as wat die Meester mag veroorloof.
- (10) Elke kwessie wat uit die tarief ontstaan of daarop betrekking het, word deur die Meester beslis.

TARIEF B.

Vergoeding van Kurator (artikel 63).

- Op die oprings van verkoopte roerende goed (buiten aandele of soortgelyke effekte) of op die bedrag wat krattens promesse of boekskulde of as huur, rente of ander inkomste ingevorder is 5 persent.
- Op die oprings van verkoopte onroerende goed, aandele en soortgelyke effekte en op ingevorderde lewens-assuransiepolisse en verbande :
- Op die eerste £5,000 2½ persent.
- Op enige bedrag bo die eerste £5,000 1½ persent.
- Op kontant geld in die boedel 1 persent.
- As die totaal-vergoeding van 'n kurator volgens hierdie tarief alles tesame minder bedra as £40, dan is hy geregtig op vergoeding, tot op daardie bedrag, teen 5 persent van die waarde van al die bate in die boedel, met 'n minimum van £5 5s.

Vergoeding van Curator Bonis en Voorlopige Kurator.

'n Redelike vergoeding, deur die Meester te bepaal, dog nie meer nie as volgens die skaal van vergoeding van 'n kurator ingevolge hierdie tarief.

Derde Bylae.

LEGES VAN DIE MEESTER (ARTIKEL 153).

| | £ | s. | d. |
|---|---|----|------|
| Vir elke deur die Meester ondertekende sertifikaat | | 5 | 0 |
| Vir elke deur die Meester voorgelegde verslag, 'n bedrag deur die Meester na goedvinde vasgestel, dog dit kan deur die hof getakseer word en mag nie minder bedra as | | 10 | 0 |
| Vir die insage van stukke in een bepaalde boedel, behalwe deur of namens 'n kurator | | 2 | 0 |
| Vir die inbind van stukke in elke boedel, al na die grootte van die boedel, volgens goedvinde van die Meester : 7s. tot | | 1 | 10 0 |
| Vir die takseer van 'n kurator se vergoeding of van 'n kosterekening (dog nie die rekening van 'n onderbalju nie), op elke pond of breukdeel van 'n pond van die getakseerde bedrag | | 1 | 0 |
| Op die bate in 'n insolvente boedel wat ter verdeling onder skuldeisers beskikbaar is : | | | |
| Op die eerste £5,000 : ¼ persent met 'n minimum van £1 | | | |
| Op enige bedrag bo die eerste £5,000 : ½ persent. | | | |
| Vir uittreksels of afskrifte van geskrifte wat in die kantoor van 'n Meester gemaak of gesertifiseer is : | | | |
| (a) As die geskrif deur die Meester gesertifiseer is : buiten die leges bedoel in die eerste item van hierdie Bylae : | | | |
| Vir elke honderdtal of deel van 'n honderdtal woorde bo die eerste honderdtal woorde | | 1 | 0 |
| (b) As die geskrif nie deur die Meester gesertifiseer is nie : | | | |
| Vir die eerste honderdtal woorde | | 2 | 0 |
| Vir elke honderdtal of deel van 'n honderdtal woorde bo die eerste honderdtal woorde | | 1 | 0 |
| Op elke bedrag wat die kurator op rekening van skuldeisers in die Voogdyfonds stort : 5 persent | | | |

No. 26, 1936.]

ACT**To provide for certain pensions, grants, gratuities,
and other pensionable benefits.**

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

Award of certain pension benefits.

1. Notwithstanding anything to the contrary in any law contained, it shall be lawful to award to the persons mentioned in the Schedule to this Act the pension, grant, gratuity or other pensionable benefit specified in the said Schedule, in respect of each such person.

Short title.

2. This Act shall be known as the Pensions (Supplementary) Act, 1936.

Schedule.

1. The award to Anna S. C. Krige, widow of C. J. Krige, formerly Speaker, House of Assembly, of a pension of £150 per annum, with effect from 1st April, 1936, payable during widowhood.

2. The award to Edith M. Brawn, formerly matron, Harrismith Hospital, of a pension of £60 per annum, with effect from 1st April, 1936.

3. The award to Catharina S. Greyvenstein, widow of S. J. Greyvenstein, trooper, 8th Mounted Rifles, of a pension of £60 per annum, with effect from 1st April, 1936, payable during widowhood.

4. The award to J. Stroebel, formerly coloured labourer, Forestry Department, of a pension of £12 per annum with effect from 1st April, 1936.

5. Subject to the repayment of the sum of £182 18s. paid to D. J. Wolhuter, formerly a constable, South African Police, he be awarded such annuity or gratuity as he would have been entitled to had the circumstances of his case conformed to the requirements of section *fifty-four* of Act No. 27 of 1923.

6. Subject to the provisions of the War Special Pensions Act, 1919, ex No. 1041, driver W. H. Tourell, South African Service Corps, M.F., be awarded such alternative pension as would have been payable had his pre-war earnings amounted to £5 per week, with effect from 1st April, 1935.

7. Subject to the provisions of the War Special Pensions Act, 1919, E. W. C. van Zyl, widow of No. 1099, trooper C. J. van Zyl, 2nd Military Constabulary, be awarded such alternative pension as would have been payable had the deceased volunteer's pre-war earnings amounted to £144 per annum, with effect from 1st April, 1935.

8. The pension of P. Commerford, formerly assistant baker, Robben Island Leper Institution, to be increased to the amount to which he would have been entitled had the circumstances of his case conformed to the requirements of section *thirty-five* (3) of Act No. 27 of 1923, with effect from 23rd April, 1931.

9. The pension of H. Greenwood, formerly teacher, School for the Blind, Worcester, to be increased from £126 18s. 4d. per annum, to £166 11s. per annum, with effect from date of retirement.

10. The pension of J. L. van der Walt, formerly teacher, Cape Provincial Administration, to be increased with effect from date of retirement to the amount to which he would have been entitled had his service from 1st April, 1907, to 31st December, 1907, been pensionable service; as a charge against the Cape Provincial Administration.

11. The award to Elsie F. Brighton, widow of No. 5100, corporal F. T. Brighton, 8th South African Infantry, of the compensation to which she would have been entitled had the circumstances of her case conformed to the requirements of section *twenty-two* of the War Special Pensions Act, 1919.

12. The award to J. A. de Waal, burgher, Anglo-Boer war, of the compensation for his disability (Thrombosis) to which he would have been entitled to under the provisions of the War Special Pensions Act, 1919, had application been made therefor prior to the 1st April, 1927, with effect from 1st April, 1936.

13. The award to P. J. de Wet, who was wounded whilst on active service in the Anglo-Boer war, of the compensation to which he would have been entitled under the provisions of the War Special Pensions Act, 1919, had application been made therefor prior to 1st April, 1927, with effect from 1st April, 1936.

14. The award to G. W. Cameron, who was wounded in 1888, whilst accompanying the late Consul-General P. J. Grobler through Matabeleland as a member of his escort, of the compensation he would have been entitled to had the circumstances of his case conformed to the requirements of Chapter VI of the War Special Pensions Act, 1919, with effect from 1st April, 1936.

15. The award to J. E. Wilson, formerly No. 2825, driver S.A.S.C.M.T., of the compensation to which he would have been entitled under the War Special Pensions Act, 1919, had application been made therefor prior to 1st April, 1932, with effect from 1st April, 1936.

No. 26, 1936.]

WET

Om voorsiening te maak vir sekere pensioene, toelaes, gratifikasies en ander pensioen-voordele.

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

1. Nieteenstaande enige andersluidende regsbepalings mag aan die persone vermeld in die Bylae tot hierdie Wetregsgeldig die pensioen, toelae, gratifikasie of ander pensioen-voordeel toegeken word wat ten opsigte van elke sodanige persoon in bedoelde Bylae aangegee word.
2. Hierdie Wet heet die Pensioene (Aanvullings) Wet, 1936.

Toekenning van sekere pensioen-voordele.

Kort titel.

Bylae.

1. Die toekenning aan Anna S. C. Krige, weduwee van C. J. Krige voorheen Speaker, Volksraad, van 'n pensioen van £150 per jaar met ingang vanaf 1 April 1936, betaalbaar gedurende weduweeskap.

2. Die toekenning aan Edith M. Brawn, voorheen matrone Harrismith-hospitaal, van 'n pensioen van £60 per jaar, met ingang vanaf 1 April 1936.

3. Die toekenning aan Catharina S. Greyvenstein, weduwee van S. J. Greyvenstein, ruiter, Agste Berede Skutters, van 'n pensioen van £60 per jaar, met ingang vanaf 1 April 1936, betaalbaar gedurende weduweeskap.

4. Die toekenning aan J. Stroebel, voorheen kleurlingarbeider, Departement van Bosbou, van 'n pensioen van £12 per jaar, met ingang vanaf 1 April 1936.

5. Onderhewig aan terugbetaling van die som van £182 18s. betaal aan D. J. Wolluter, voorheen konstabel, Suid-Afrikaanse Polisie, aan hom sodanige jaargeld of gratifikasie toegeken word as waartoe hy geregtig sou gewees het indien die omstandighede van sy geval aan die vereistes van artikel *vier-en-vyftig* van Wet No. 27 van 1923 voldoen het.

6. Onderhewig aan die bepalings van die Oorlogs Speciale Pensioenen Wet 1919, aan ex No. 1041, drywer W. H. Tourell, Suid-Afrikaanse Diens-korps, M.T., sodanige alternatiewe pensioen toegeken word as wat betaalbaar sou gewees het indien sy voor-oorlogse verdienste £5 per week bedra het, met ingang vanaf 1 April 1935.

7. Onderhewig aan die bepalings van die Oorlogs Speciale Pensioenen Wet, 1919, aan E. W. C. van Zyl, weduwee van No. 1099, manskap C. J. van Zyl, Tweede Militêre Konstabelmag, sodanige alternatiewe pensioen toegeken word as wat betaalbaar sou gewees het indien die oorledene se voor-oorlogse verdienste £144 per jaar bedra het, met ingang vanaf 1 April 1935.

8. Die pensioen van P. Commerford, voorheen hulp-bakker, Robben-eiland-melaatsegestig, verhoog te word tot die bedrag waartoe hy geregtig sou gewees het indien die omstandighede van sy geval aan die vereistes van artikel *vyf-en-dertig* (3) van Wet No. 27 van 1923 voldoen het, met ingang vanaf 23 April 1931.

9. Die pensioen van H. Greenwood, voorheen onderwyser, Skool vir Blindes, Worcester, verhoog te word van £126 13s. 4d. per jaar tot £166 11s. per jaar, met ingang vanaf datum van uitdienstreding.

10. Die pensioen van J. L. van der Walt, voorheen onderwyser, Kaapse Provinsiale Administrasie, verhoog te word met ingang vanaf datum van uitdienstreding tot die bedrag waartoe hy geregtig sou gewees het indien sy diens vanaf 1 April 1907 tot 31 Desember 1907 pensioendraende diens was; as 'n las op die Kaapse Provinsiale Administrasie.

11. Die toekenning aan Elsie F. Brighton, weduwee van No. 5100, korporaal F. T. Brighton, Agste Suid-Afrikaanse Infanterie, van die vergoeding waartoe sy geregtig sou gewees het indien die omstandighede van haar geval aan die vereistes van artikel *twee-en-twintig* van die Oorlogs Speciale Pensioenen Wet, 1919, voldoen het.

12. Die toekenning aan J. A. de Waal, burger, Anglo-Boereoorlog, van die kompensasie vir sy ongeskiktheid (Thrombosis) waartoe hy onder die bepalings van die Oorlogs Speciale Pensioenen Wet, 1919, geregtig sou gewees het, indien aansoek daarom voor 1 April 1927 gedoen was, met ingang vanaf 1 April 1936.

13. Die toekenning aan P. J. de Wet, wat op aktiewe diens gedurende die Anglo-Boereoorlog gewond is, van die vergoeding waarop hy onder die bepalings van die Oorlogs Speciale Pensioenen Wet, 1919, geregtig sou gewees het, indien aansoek daarom voor 1 April 1927 gedoen was, met ingang vanaf 1 April 1936.

14. Die toekenning aan G. W. Cameron, wat in 1888 gewond is, terwyl hy wyle die Konsul-generaal P. J. Grobler deur Matabeleland as lid van sy eskort vergesel het, van die vergoeding waartoe hy geregtig sou gewees het indien die omstandighede van sy geval aan die vereistes van Hoofstuk VI van die Oorlogs Speciale Pensioenen Wet, 1919, voldoen het, met ingang vanaf 1 April 1936.

15. Die toekenning aan J. E. Wilson, voorheen No. 2825, drywer S.A.S.C.M.T., van die vergoeding waartoe hy onder die Oorlogs Speciale Pensioenen Wet, 1919, geregtig sou gewees het indien aansoek daarom voor 1 April 1932 gedoen was, met ingang vanaf 1 April 1936.

16. The award to J. S. P. Hayward, formerly labourer, Forestry Department, of a gratuity of £52 5s.

17. The award to Elsie J. van der Merwe, widow of No. 1406, gunner J. van der Merwe, S.A.H.A., of the gratuity to which she would have been entitled had the circumstances of her case conformed to the requirements of section *twenty-six* (2) of the War Special Pensions Act, 1919.

18. The award to Annie Skillicorn, widow of W. J. Skillicorn, formerly a first-grade clerk of works, Public Works Department, of a gratuity of £104 13s. 3d. and of such leave gratuity as would have been payable to her had the provisions of Treasury Circular No. 39 of 1920 been applicable to her case.

19. The award to Mina C. Ellis, widow of No. 11053, corporal D. V. Ellis, 2nd South African Infantry, of the gratuity to which she would have been entitled had the circumstances of her case conformed to the requirements of section *twenty-six* (2) of the War Special Pensions Act, 1919.

20. The award to Mrs. M. E. G. Cilliers, widow of R. E. Cilliers, formerly sheep inspector, Department of Agriculture, for and on behalf of her minor children, of £12 per annum in respect of each such child until they respectively attain the age of 16 years, with effect from 1st April, 1936.

21. That G. D. Lockwood, clerk, Department of Justice, be permitted to contribute to the Union Pension Fund in respect of his service as Judge's Clerk from 1st April, 1905, to March, 1914.

22. Subject to the repayment of the pension benefit previously paid to J. P. Coetser, warder, Prisons Department, the break in his service from 20th June, 1931, to 6th September, 1932, be condoned, being regarded as special leave of absence without pay, not counting as service, but preserving to him the benefit of his previous service from 12th November, 1929, for pension purposes.

23. Subject to the payment of the necessary contributions to the Pension Fund, the break in the service of H. J. Lourens, gunner, S.A.P.G.A., from 23rd April, 1930, to 21st May, 1930, be condoned, being regarded as special leave without pay, not counting as service, but preserving to him the benefit of his previous service for pension purposes.

24. The break in the service of J. Masemene, native constable, South African Police, from 25th July, 1931, to 6th March, 1932, to be condoned, being regarded as special leave of absence without pay, not counting as service, but preserving to him the benefit of his previous service for pension purposes.

25. The break in service of S. Michael, second grade clerk, Treasury, from 14th November, 1929, to 18th November, 1929, to be condoned, being regarded as special leave of absence without pay, not counting as service, and that he be permitted to contribute to the Union Pension Fund in respect of his service from 25th May, 1925.

26. The award to F. Jenner, formerly a member of the Cape Police, of a pension of £23 4s. per annum, with effect from the date of final retirement.

27. The award to Florence Andrew, widow of J. Andrew, ex No. 148, corporal, S.A.M.T.C., of the pension to which she would have been entitled had the circumstances of her case conformed to the requirements of section *sixteen* of the War Special Pensions Act, 1919.

28. The award to Alice Brown, widow of F. B. Brown, No. 4, sergeant-major, South African Signalling Corps, of the pension to which she would have been entitled had the circumstances of her case conformed to the requirements of section *sixteen* of the War Special Pensions Act, 1919.

29. The award to Johanna P. Brown, widow of S. Brown, ex No. 13165, private, 6th South African Infantry, of the pension to which she would have been entitled had the circumstances of her case conformed to the requirements of section *sixteen* of the War Special Pensions Act, 1919.

30. The award to Barendina J. Hogan, widow of P. J. Hogan, ex No. 4876, private, 5th South African Infantry, of the pension to which she would have been entitled had the circumstances of her case conformed to the requirements of section *sixteen* of the War Special Pensions Act, 1919.

31. The award to Ellen Long, widow of A. J. Long, ex No. X 161, gunner, South African Heavy Artillery, of the pension to which she would have been entitled had the circumstances of her case conformed to the requirements of section *sixteen* of the War Special Pensions Act, 1919.

32. The award to Katherine Loxton, widow of H. J. P. Loxton, lieutenant, 5th South African Horse, of the pension to which she would have been entitled had the circumstances of her case conformed to the requirements of section *sixteen* of the War Special Pensions Act, 1919.

33. The award to Madeline J. Roos, widow of E. F. Roos, ex No. 1448, sapper, Divisional Signalling Corps, of the pension to which she would have been entitled had the circumstances of her case conformed to the requirements of section *sixteen* of the War Special Pensions Act, 1919.

34. The award to Bertha Tobiansky, widow of J. Tobiansky, ex No. 10105, private, 3rd South African Infantry, of the pension to which she would have been entitled had the circumstances of her case conformed to the requirements of section *sixteen* of the War Special Pensions Act, 1919.

35. The award to Anna H. Wheeler, widow of W. J. C. Wheeler, burgher, Anglo-Boer war, of the pension to which she would have been entitled had the circumstances of her case conformed to the requirements of section *sixteen* of the War Special Pensions Act, 1919.

36. The award to Philipina S. Botha, widow of Frederick C. Botha, burgher, Anglo-Boer war, of the pension to which she would have been entitled had the circumstances of her case conformed to the requirements of section *sixteen* of the War Special Pensions Act, 1919, with effect from 1st April, 1935.

16. Die toekenning aan J. S. P. Hayward, voorheen arbeider, Departement van Bosbou, van 'n gratifikasie van £52 5s.

17. Die toekenning aan Elsie J. van der Merwe, weduwee van No. 1406 kanonnier J. van der Merwe, S.A.H.A., van die gratifikasie waartoe sy geregtig sou gewees het indien die omstandighede van haar geval aan die vereistes van artikel *ses-en-twintig* (2) van die Oorlogs Speciale Pensioenen Wet, 1919, voldoen het.

18. Die toekenning aan Annie Skillicorn, weduwee van W. J. Skillicorn, voorheen eerstegraads-werksopsigter, Publieke Werke-departement, van 'n gratifikasie van £104 13s. 3d. en van sodanige verlof-gratifikasie as wat aan haar betaalbaar sou gewees het indien die bepalings van Tesourie-omsendbrief No. 39 van 1920 op haar geval van toepassing was.

19. Die toekenning aan Mina C. Ellis, weduwee van No. 11053, korporaal D. V. Ellis Tweede Suid-Afrikaanse Infanterie, van die gratifikasie waarop sy geregtig sou gewees het indien die omstandighede van haar geval aan die vereistes van artikel *ses-en-twintig* (2) van die Oorlogs Speciale Pensioenen Wet, 1919, voldoen het.

20. Die toekenning aan Mev. M. E. G. Cilliers, weduwee van R. E. Cilliers, voorheen skaapinspekteur, Departement van Landbou, vir en ten behoeve van haar minderjarige kinders van £12 per jaar ten opsigte van elke sodanige kind totdat hulle die ouderdom van sestien jaar onderskeidelik bereik, met ingang vanaf 1 April 1936.

21. Dat G. D. Lockwood, klerk, Departement van Justisie, toegelaat word om tot die Unie-pensioenfonds by te dra ten opsigte van sy diens as regtersklerk vanaf 1 April 1905, tot Maart 1914.

22. Onderhewig aan die terugbetaling van die pensioenvoordeel tevore betaal aan J. P. Coetser, bewaarder, Departement van Gevangenis, sy diensonderbreking vanaf 20 Junie 1931 tot 6 September 1932 verskoon te word en as spesiale verlof van afwesigheid sonder betaling beskou te word, nie as diens geldende nie, maar aan hom die voordeel van sy vorige diens vanaf 12 November 1929 vir pensioendoeleindes latende.

23. Onderhewig aan die betaling van die nodige bydraes tot die Pensioenfonds, die diensonderbreking van H. J. Lourens, kanonnier, S.A.P.G.A., vanaf 23 April 1930 tot 21 Mei 1930 verskoon te word en as spesiale verlof sonder betaling beskou te word, nie as diens geldende nie, maar aan hom die voordeel van sy vorige diens vir pensioendoeleindes latende.

24. Die diensonderbreking van J. Masemene, naturellekonstabel, Suid-Afrikaanse Polisie, vanaf 25 Julie 1931 tot 6 Maart 1932, verskoon te word en as spesiale verlof van afwesigheid sonder betaling beskou te word, nie as diens geldende nie, maar aan hom die voordeel van sy vorige diens vir pensioendoeleindes latende.

25. Die diensonderbreking van S. Michael, tweedegraads-klerk, Tesourie, vanaf 14 November 1929 tot 18 November 1929, verskoon te word en as spesiale verlof van afwesigheid sonder betaling beskou te word, nie as diens geldende nie, en dat hy veroorloof word om tot die Unie-pensioenfonds ten opsigte van sy diens vanaf 25 Mei 1925 by te dra.

26. Die toekenning aan F. Jenner, voorheen lid van die Kaapse Polisie, van 'n pensioen van £23 4s. per jaar, met ingang vanaf datum van finale uitdienstreding.

27. Die toekenning aan Florence Andrew, weduwee van J. Andrew, ex No. 148 korporaal S.A.M.T.C., van die pensioen waartoe sy geregtig sou gewees het as die omstandighede van haar geval aan die vereistes van artikel *sestien* van die Oorlogs Speciale Pensioenen Wet, 1919, voldoen het.

28. Die toekenning aan Alice Brown, weduwee van F. B. Brown, No. 4, sersant-majoor, Suid-Afrikaanse Sinjaalkorps, van die pensioen waartoe sy geregtig sou gewees het as die omstandighede van haar geval aan die vereistes van artikel *sestien* van die Oorlogs Speciale Pensioenen Wet, 1919, voldoen het.

29. Die toekenning aan Johanna P. Brown, weduwee van S. Brown, ex No. 13165, manskap, Sesde Suid-Afrikaanse Infanterie, van die pensioen waartoe sy geregtig sou gewees het as die omstandighede van haar geval aan die vereistes van artikel *sestien* van die Oorlogs Speciale Pensioenen Wet, 1919, voldoen het.

30. Die toekenning aan Barendina J. Hogan, weduwee van P. J. Hogan, ex No. 4876, manskap, Vyfde Suid-Afrikaanse Infanterie, van die pensioen waartoe sy geregtig sou gewees het as die omstandighede van haar geval aan die vereistes van artikel *sestien* van die Oorlogs Speciale Pensioenen Wet, 1919, voldoen het.

31. Die toekenning aan Ellen Long, weduwee van A. J. Long, ex No. X161, kanonnier, Suid-Afrikaanse Swaar Geskut, van die pensioen waartoe sy geregtig sou gewees het as die omstandighede van haar geval aan die vereistes van artikel *sestien* van die Oorlogs Speciale Pensioenen Wet, 1919, voldoen het.

32. Die toekenning aan Katherine Loxton, weduwee van H. J. P. Loxton, luitenant, Vyfde Suid-Afrikaanse Ruiters, van die pensioen waartoe sy geregtig sou gewees het as die omstandighede van haar geval aan die vereistes van artikel *sestien* van die Oorlogs Speciale Pensioenen Wet, 1919, voldoen het.

33. Die toekenning aan Madeline J. Roos, weduwee van E. F. Roos, ex No. 1448, sapper, Afdelings-sinjaalkorps, van die pensioen waartoe sy geregtig sou gewees het as die omstandighede van haar geval aan die vereistes van artikel *sestien* van die Oorlogs Speciale Pensioenen Wet, 1919, voldoen het.

34. Die toekenning aan Bertha Tobiansky, weduwee van J. Tobiansky, ex No. 10105, manskap, Derde Suid-Afrikaanse Infanterie, van die pensioen waartoe sy geregtig sou gewees het as die omstandighede van haar geval aan die vereistes van artikel *sestien* van die Oorlogs Speciale Pensioenen Wet, 1919, voldoen het.

35. Die toekenning aan Anna H. Wheeler, weduwee van W. J. C. Wheeler, burger, Anglo-Boereoorlog, van die pensioen waartoe sy geregtig sou gewees het as die omstandighede van haar geval aan die vereistes van artikel *sestien* van die Oorlogs Speciale Pensioenen Wet, 1919, voldoen het.

36. Die toekenning aan Philipina S. Botha, weduwee van Frederick C. Botha, burger, Anglo-Boereoorlog, van die pensioen waartoe sy geregtig sou gewees het as die omstandighede van haar geval aan die vereistes van artikel *sestien* van die Oorlogs Speciale Pensioenen Wet, 1919, voldoen het, met ingang vanaf 1 April 1935.

37. The award to Mrs. H. du Plessis, mother of the late G. T. du Plessis, ex No. 14482, private, 2nd South African Infantry, of the pension to which she would have been entitled had the circumstances of her case conformed to the requirements of section *twenty-five* of the War Special Pensions Act, 1919.

38. The award to Dorothea W. van Rhede, mother of the late M. A. W. de Beer, No. 2895, private, Potchefstroom Commando, of the pension to which she would have been entitled had the circumstances of her case conformed to the requirements of section *twenty-five* of the War Special Pensions Act, 1919.

39. Subject to the provisions of the War Special Pensions Act, 1919, ex private No. 765, G. T. Rea, 1st South African Infantry, be awarded such alternative pension as would have been payable had his pre-war earnings amounted to £6 per week, with effect from 1st April, 1936.

40. Subject to the provisions of the War Special Pensions Act, 1919, W. H. Burne, ex No. 13600, private, 2nd South African Infantry, to be awarded such alternative pension as would have been payable had his pre-enlistment earnings amounted to £4 10s. per week, with effect from 1st April, 1936.

41. Subject to the provisions of the War Special Pensions Act, 1919, A. D. Kirstein, ex No. 52, trooper, Klerksdorp Commando, be awarded such alternative pension as would have been payable had his pre-war earnings amounted to £4 per week, with effect from 1st April, 1936.

42. Subject to the provisions of the War Special Pensions Act, 1919, B. Parker, widow of C. Parker, ex No. 832, gunner, South African Heavy Artillery, be awarded such alternative pension as would have been payable had the late volunteer's pre-war earnings amounted to £3 9s. per week, with effect from 1st April, 1936.

43. The award to P. J. Millner, formerly second grade detective, South African Police, of such pension, with effect from 1st April, 1934, as he would have been entitled to had the circumstances of his case conformed to the requirements of section *thirty-six* of the Public Service and Pensions Act, 1908 (Transvaal), but not exceeding one-fifth of his average salary for pension purposes.

44. The award to M. R. Collins, formerly engineer, Irrigation Department, with effect from 1st April, 1936, of such increased pension as would have been payable to him had the provisions of section *nine* (1) of the Financial Adjustments Act, 1922, been applicable to his case.

45. The pension of J. Gilbert, formerly inspector, Postal Department, to be increased from £275 13s. 10d. per annum, to £300 per annum, with effect from 1st April, 1936.

46. The pension of £255 per annum presently paid to B. Noaks, formerly inspector of schools, to be increased with effect from 1st April, 1935, to such amount as would have been payable had his service from 1st October, 1900, to 16th July, 1909, been pensionable under Ordinance No. 23 of 1904, O.R.C.

47. The award to Maria C. Haack, widow of G. A. Haack, formerly chief warder, Prisons Department, of a gratuity of £140.

48. The award to J. Oosthuizen, formerly constable, South African Police, of an additional gratuity of £86.

49. The award to G. J. Meiring, formerly constable, South African Police, of a gratuity equivalent to the contributions paid by him to the Union Services Pension Fund.

50. The award to W. V. Mason, formerly a postman, of a gratuity equivalent to the contributions paid by him to the Union General Divisional Pension Fund.

51. The award to Ada M. Nicholas, widow of W. J. Nicholas, ex No. 10211, private, 4th South African Infantry, of the gratuity to which she would have been entitled had the circumstances of her case conformed to the requirements of section *twenty-six* (2) of the War Special Pensions Act, 1919.

52. The award to Alice A. Bailey, widow of E. A. Bailey, ex No. 18996, private, 2nd South African Infantry, of the gratuity to which she would have been entitled had the circumstances of her case conformed to the requirements of section *twenty-six* (2) of the War Special Pensions Act, 1919.

53. The award to Lilian Williams, widow of F. T. Williams, ex No. 11030, private, 3rd South African Infantry, of the gratuity to which she would have been entitled had the circumstances of her case conformed to the requirements of section *twenty-six* (2) of the War Special Pensions Act, 1919.

54. The award to Susara M. E. van der Bank, widow of J. H. van der Bank, formerly machinist, Government Printing Works, for and on behalf of her minor children, of £12 per annum, in respect of each such minor child until they respectively attain the age of 16 years, with effect from 1st April, 1936.

55. The award to Sarah J. E. Crofford, widow of C. F. Crofford, formerly compositor, Government Printing Works, for and on behalf of her minor children, of £12 per annum, in respect of each such minor child until they respectively attain the age of 16 years, with effect from 1st April, 1936.

56. That L. M. Walton, computer, Department of Lands, be permitted to contribute to the Union Pension Fund, in respect of his service from 26th October, 1908.

57. That J. H. Pienaar, Mines Department, be permitted to contribute to the Union Pension Fund, in terms of section *twenty-eight* of Act No. 27 of 1923, in respect of his service from 1st January, 1914, to 31st December, 1929, as if he had elected to do so within the period prescribed, and that for such purpose his service during such period be regarded as having been teaching service.

58. Subject to the repayment of the gratuities of £150 and £329 3s. 4d., previously paid to P. M. van der Lingen, Public Service Commissioner, his service to be allowed to count for pension purposes from 1st October, 1903, on the basis of Chapter III of Act No. 19 of 1908 (Transvaal).

37. Die toekenning aan Mev. H. du Plessis, moeder van wyle G. T. du Plessis, ex No. 14482, manskap, Tweede Suid-Afrikaanse Infanterie, van die pensioen waartoe sy geregtig sou gewees het as die omstandighede van haar geval aan die vereistes van artikel *vyf-en-twintig* van die Oorlogs Speciale Pensioenen Wet, 1919, voldoen het.

38. Die toekenning aan Dorothea W. van Rhede, moeder van wyle M. A. W. de Beer, No. 2895, manskap, Potchefstroomse Kommando, van die pensioen waartoe sy geregtig sou gewees het as die omstandighede van haar geval aan die vereistes van artikel *vyf-en-twintig* van die Oorlogs Speciale Pensioenen Wet, 1919, voldoen het.

39. Behoudens die bepalings van die Oorlogs Speciale Pensioenen Wet, 1919, aan gewese manskap No. 765, G. T. Rea, Eerste Suid-Afrikaanse Infanterie, sodanige alternatiewe pensioen toegeken te word as wat betaalbaar sou gewees het indien sy voor-oorlogse verdienste £6 per week bedra het, met ingang vanaf 1 April 1936.

40. Behoudens die bepalings van die Oorlogs Speciale Pensioenen Wet, 1919, aan W. H. Burne, ex No. 13600, manskap, Tweede Suid-Afrikaanse Infanterie, sodanige alternatiewe pensioen toegeken te word as wat betaalbaar sou gewees het indien sy voor-inskrywingsverdiens te £4 10s. per week bedra het, met ingang vanaf 1 April 1936.

41. Behoudens die bepalings van die Oorlogs Speciale Pensioenen Wet, 1919, aan A. D. Kirstein, ex No. 52 ruiter, Klerksdorpse Kommando, sodanige alternatiewe pensioen toegeken te word, as wat betaalbaar sou gewees het indien sy voor-oorlogse verdienste £4 per week bedra het, met ingang vanaf 1 April 1936.

42. Behoudens die bepalings van die Oorlogs Speciale Pensioenen Wet, 1919, aan B. Parker, weduwee van C. Parker, ex No. 832, kanonnier, Suid-Afrikaanse Swaar Geskut, sodanige alternatiewe pensioen toegeken te word as wat betaalbaar sou gewees het as die oorlede vrywilliger se voor-oorlogse verdienste £3 9s. per week bedra het, met ingang vanaf 1 April 1936.

43. Die toekenning aan P. J. Millner, voorheen tweede-graadse speurder, Suid-Afrikaanse Polisie, van sodanige pensioen, met ingang vanaf 1 April 1934, as waartoe hy geregtig sou gewees het as die omstandighede van sy geval aan die vereistes van artikel *ses-en-dertig* van die Staatsdiens en Pensioen Wet, 1908 (Transvaal), voldoen het maar nie meer nie as een-vyftede van sy gemiddelde salaris vir pensioendoeleindes.

44. Die toekenning aan M. R. Collins, voorheen ingenieur, Besproeiingsdepartement, met ingang vanaf 1 April 1936, van sodanige verhoogde pensioen as wat aan hom betaalbaar sou gewees het, as die bepalings van artikel *nege* (1) van die Finansiële Regelings Wet, 1922, op sy geval van toepassing was.

45. Die pensioen van J. Gilbert, voorheen inspekteur, Poswese-departement, verhoog te word van £275 13s. 10d. per jaar tot £300 per jaar, met ingang vanaf 1 April 1936.

46. Die pensioen van £255 per jaar tans betaal aan B. Noaks, voorheen inspekteur van skole, verhoog te word met ingang vanaf 1 April 1935, tot sodanige bedrag as wat betaalbaar sou gewees het indien sy diens vanaf 1 Oktober 1900 tot 16 Julie 1909 pensioendraend was kragtens Ordonnansie No. 23 van 1904 (O.R.K.).

47. Die toekenning aan Maria C. Haack, weduwee van G. A. Haack, voorheen hoofbewaarder, Gevangenis-departement, van 'n gratifikasie van £140.

48. Die toekenning aan J. Oosthuizen, voorheen konstabel, Suid-Afrikaanse Polisie, van 'n addisionele gratifikasie van £86.

49. Die toekenning aan G. J. Meiring, voorheen konstabel, Suid-Afrikaanse Polisie, van 'n gratifikasie gelyk aan die bydraes deur hom aan die Uniedienste-pensioenfonds betaal.

50. Die toekenning aan W. V. Mason, voorheen posbode, van 'n gratifikasie gelyk aan die bydraes deur hom aan die Unie Algemene Afdelings-pensioenfonds betaal.

51. Die toekenning aan Ada M. Nicholas, weduwee van W. J. Nicholas, ex No. 10211, manskap, Vierde Suid-Afrikaanse Infanterie, van die gratifikasie waartoe sy geregtig sou gewees het as die omstandighede van haar geval aan die vereistes van artikel *ses-en-twintig* (2) van die Oorlogs Speciale Pensioenen Wet, 1919, voldoen het.

52. Die toekenning aan Alice A. Bailey, weduwee van E. A. Bailey, ex No. 18996, manskap, Tweede Suid-Afrikaanse Infanterie, van die gratifikasie waartoe sy geregtig sou gewees het as die omstandighede van haar geval aan die vereistes van artikel *ses-en-twintig* (2) van die Oorlogs Speciale Pensioenen Wet, 1919, voldoen het.

53. Die toekenning aan Lilian Williams, weduwee van F. T. Williams, ex No. 11030, manskap, Derde Suid-Afrikaanse Infanterie, van die gratifikasie waartoe sy geregtig sou gewees het as die omstandighede van haar geval aan die vereistes van artikel *ses-en-twintig* (2) van die Oorlogs Speciale Pensioenen Wet, 1919, voldoen het.

54. Die toekenning aan Susara M. E. van der Bank, weduwee van J. H. van der Bank, voorheen masjinis, Staatsdrukkery, vir en ten behoeve van haar minderjarige kinders, van £12 per jaar, ten opsigte van elke sodanige minderjarige kind, totdat hulle die ouderdom van sestien jaar onderskeidelik bereik, met ingang vanaf 1 April 1936.

55. Die toekenning aan Sarah J. E. Crofford, weduwee van C. F. Crofford, voorheen setter, Staatsdrukkery, vir en ten behoeve van haar minderjarige kinders, van £12 per jaar, ten opsigte van elke sodanige minderjarige kind, totdat hulle die ouderdom van sestien jaar onderskeidelik bereik, met ingang vanaf 1 April 1936.

56. L. M. Walton, rekenaar, Departement van Lande, veroorloof te word om tot die Unie-pensioenfonds by te dra, ten opsigte van sy diens vanaf 26 Oktober 1908.

57. J. H. Pienaar, Mynwese-departement, veroorloof te word om tot die Unie-pensioenfonds by te dra, ingevolge artikel *agt-en-twintig* van Wet No. 27 van 1923, ten opsigte van sy diens vanaf 1 Januarie 1914 tot 31 Desember 1929, asof hy verkies het om sulks te doen binne die bepaalde tyd, en dat vir sodanige doel sy diens gedurende sodanige tydperk beskou word as onderwysdiens te gewees het.

58. Behoudens terugbetaling van die gratifikasies van £150 en £329 3s 4d., tevore betaal aan P. M. van der Lingen, Staatsdiens-kommissaris, sy diens veroorloof te word om vir pensioendoeleindes te geld vanaf 1 Oktober 1903, op die grondslag van Hoofstuk III van Wet No. 19 van 1908 (Transvaal).

59. Subject to the repayment of the sum of £20 10s. previously paid to Jane Hardman, telephonist, Provincial Administration, Natal, the break in her pensionable service from 1st January, 1934, to 14th January, 1935, to be condoned, being regarded as special leave of absence without pay, not counting as service but preserving to her the benefit of her previous service from 1st December, 1929, for pension purposes.

60. Subject to the repayment of the sum of £6 17s. 2d. previously paid to J. S. P. Naude, economist, Department of Agriculture, the break in his service from 6th December, 1925, to 11th July, 1927, to be condoned, being regarded as special leave without pay, not counting as service but preserving to him the benefit of his previous service from 28th January, 1925, for pension purposes.

61. The break in service of S. Tshabalala, native constable, South African Police, from 1st August, 1931, to the 30th September, 1931, to be condoned, being regarded as special leave without pay, not counting as service, but preserving to him the benefit of his previous service for pension purposes.

62. The break in service of B. Monasa, native constable, South African Police, from the 1st August, 1931, to the 15th February, 1932, to be condoned, being regarded as special leave without pay, not counting as service but preserving to him the benefit of his previous service for pension purposes.

63. The break in service of J. T. Radebe, ex native corporal, South African Police, from 1st July, 1917, to 31st July, 1917, to be condoned, being regarded as special leave of absence without pay, not counting as service, and, subject to the repayment of the sum of £67 10s. 8d. previously paid to him, he be awarded such pension, with effect from date of retirement, as he would have been entitled to had the provisions of section *sixty-seven* of the Public Service and Pensions Act, 1923, been applicable to his case.

64. Item No. 40 of the Schedule to the Pensions (Supplementary) Act, 1934, in respect of an award to S. A. M. Pritchard to be amended by the deletion of the words "from 1st April, 1934" and the substitution of the words "from date of retirement".

65. The award to Anna E. Kritzinger, widow of J. A. Kritzinger, formerly ganger, South African Railways and Harbours, of a gratuity of £89 16s. 6d.

66. The award to Asa Reynolds, widow of T. Reynolds, formerly in the service of the South African Railways and Harbours, of a gratuity of £32 10s. payable in monthly instalments of £2, with effect from the date upon which the payment of the award made to her by the Charitable Fund is completed.

67. The award to Priscilla D. Jaffray, widow of W. A. Jaffray, formerly district engineer, South African Railways and Harbours, for and on behalf of her daughter of £3 6s. 8d. per month, until she reaches the age of 16 years, with effect from the 23rd October, 1932.

68. Subject to the payment by T. J. Lofthouse, fitter, South African Railways and Harbours, of contributions to "the New Fund" (Act 24 of 1925) at the rate of four per cent. on £27 10s. for each calendar month of the period 1st December, 1932, to the 28th February, 1935, together with interest at 4½ per cent. compounded monthly.

(a) That the period 1st December, 1932, to the 28th February, 1935, both dates inclusive, be added to his pensionable service; and

(b) that his rate of contribution to "the New Fund" from 1st March, 1935, be four per cent. and that he be refunded the difference between contributions to "the New Fund" from 1st March, 1935, at the rate paid and four per cent., together with interest on the difference at 4½ per cent. compounded monthly.

69. That subject to the payment of contributions to the New Superannuation Fund on nine shillings and six pence per day and compound interest at five per cent. per annum, in respect of the period 1st February, 1914, to the 4th May, 1915, both dates inclusive, by E. Bishop, timekeeper, South African Railways and Harbours, Germiston, this period be added to his pensionable service.

70. That the break in the service of A. A. Ford, fitter, South African Railways and Harbours, from 20th March, 1920, to the 28th March, 1920, be condoned, not counting as pensionable service but preserving to him for pension purposes the benefit of his previous pensionable service on payment of the member's contributions due in terms of Act 24 of 1925 together with compound interest thereon at the rate of five per cent. per annum.

71. Item No. 113 of the Schedule to the Pensions Supplementary Act, 1935, in respect of an award to A. H. Simmons, to be amended by the addition after the words "New Superannuation Fund" of the following words:

"together with interest on the difference between the amounts paid to 'the Fund' and 'the New Fund' (Act 24 of 1925) and those payable to the Cape Civil Service Pension Fund, such interest being calculated at the rates of interest credited to 'the Fund' and 'the New Fund' on their balances from time to time".

72. The award to F. P. Cillie, formerly inspector of schools, of a pension of £63 per annum in respect of his teaching service, with effect from 1st January, 1935, as a charge against the Cape Provincial Administration.

73. The award to P. L. de Jager, who served in the Anglo-Boer war and in subsequent military campaigns, of a pension of £60 per annum, with effect from 1st April, 1936.

74. The award to Elena P. Boshoff, widow of F. Boshoff, formerly member of the Volksraad of the South African Republic, of a pension of £50 per annum, payable during widowhood, with effect from 1st April, 1936.

75. The award to Charlotte L. Ferguson, widow of H. D. Ferguson, who was shot during the Anglo-Boer war, of a pension of £36 per annum, payable during widowhood, with effect from 1st April, 1936.

76. The award to J. H. Lynch, ex No. 291, sergeant major, S.A.S.C., of a pension of £30 per annum, until such time as he attains the age described in the Old Age Pensions Act, 1928, with effect from 1st April, 1936.

59. Behoudens terugbetaling van die som van £20 10s., tevore betaal aan Jane Hardman, telefonis, Provinsiale Administrasie, Natal, die onderbreking van haar pensioendraende diens vanaf 1 Januarie 1934 tot 14 Januarie 1935 verskoon te word, en as spesiale verlof van afwesigheid sonder betaling beskou te word, nie as diens geldende nie, maar aan haar die voordeel van haar vorige diens vanaf 1 Desember 1929 vir pensioendoeleindes latende.

60. Behoudens terugbetaling van die som van £6 17s. 2d., tevore betaal aan J. S. P. Naude, ekonoom, Landbou-departement, sy diensonderbreking vanaf 6 Desember 1925 tot 11 Julie 1927 verskoon te word, en as spesiale verlof sonder betaling beskou te word, nie as diens geldende nie, maar aan hom die voordeel van sy vorige diens vanaf 28 Januarie 1925 vir pensioendoeleindes latende.

61. Die diensonderbreking van S. Tshabalala, naturellekonstabel, Suid-Afrikaanse Polisie, vanaf 1 Augustus 1931 tot 30 September 1931 verskoon te word, en as spesiale verlof sonder betaling beskou te word, nie as diens geldende nie, maar aan hom die voordeel van sy vorige diens vir pensioendoeleindes latende.

62. Die diensonderbreking van B. Monasa, naturellekonstabel, Suid-Afrikaanse Polisie, vanaf 1 Augustus 1931 tot 15 Februarie 1932 verskoon te word, en as spesiale verlof sonder betaling beskou te word, nie as diens geldende nie, maar aan hom die voordeel van sy vorige diens vir pensioendoeleindes latende.

63. Die diensonderbreking van J. T. Radebe, gewese naturelle-korporaal, Suid-Afrikaanse Polisie, vanaf 1 Julie 1917 tot 31 Julie 1917 verskoon te word, en as spesiale verlof van afwesigheid sonder betaling beskou te word, nie as diens geldende nie, en behoudens terugbetaling van die som van £67 10s. 8d. tevore aan hom betaal, aan hom sodanige pensioen toegeken te word met ingang vanaf datum van uitdienstreding as waartoe hy geregtig sou gewees het as die bepaling van artikel *sewen-en-sestig* van die Staatsdiens en Pensioen Wet, 1923, op sy geval van toepassing was.

64. Item No. 40 van die Bylae tot die Pensioene (Aanvullings) Wet, 1934, ten opsigte van 'n toekenning aan S. A. M. Pritchard gewysig te word deur skraping van die woorde „vanaf 1 April 1934” en die vervanging daarvan deur die woorde „vanaf datum van uitdienstreding”.

65. Die toekenning aan Anna E. Kritzinger, weduwee van J. A. Kritzinger, voorheen ploegbaas, Suid-Afrikaanse Spoorweë en Hawens, van 'n gratifikasie van £89 16s. 6d.

66. Die toekenning aan Asa Reynolds, weduwee van T. Reynolds, voorheen in diens van die Suid-Afrikaanse Spoorweë en Hawens, van 'n gratifikasie van £32 10s., in maandelikse paaiemente van £2 betaalbaar, met ingang vanaf die datum waarop die betaling van die toekenning aan haar deur die Liefdadigheidsfonds gemaak klaar is.

67. Die toekenning aan Priscilla D. Jaffray, weduwee van W. A. Jaffray, voorheen distriksingenieur, Suid-Afrikaanse Spoorweë en Hawens, vir en ten behoeve van haar dogter van £3 6s. 8d. per maand, totdat sy die ouderdom van sestiën jaar bereik, met ingang vanaf 23 Oktober 1932.

68. Behoudens die betaling deur T. J. Lofthouse, fitter, Suid-Afrikaanse Spoorweë en Hawens, van bydraes tot „die Nuwe Fonds” (Wet No. 24 van 1925) teen die skaal van vier persent op £27 10s. vir elke kalendermaand van die tydperk 1 Desember 1932 tot 28 Februarie 1935, saam met rente teen $4\frac{1}{2}$ persent maandeliks samegestel:

(a) Die tydperk 1 Desember 1932 tot 28 Februarie 1935, albei dae inbegrepe, by sy pensioendraende diens gevoeg te word; en

(b) sy skaal van bydrae tot „die Nuwe Fonds” vanaf 1 Maart 1935 vier persent te wees en aan hom terugbetaal te word die verskil tussen bydraes tot „die Nuwe Fonds” vanaf 1 Maart 1935 teen die skaal betaal en vier persent, saam met rente op die verskil teen $4\frac{1}{2}$ persent maandeliks samegestel.

69. Behoudens die betaling van bydraes tot die Nuwe Superannuasie-fonds op nege shillings en ses pennies per dag en samegestelde rente teen vyf persent per jaar ten opsigte van die tydperk 1 Februarie 1914 tot 4 Mei 1915, albei dae inbegrepe, deur E. Bishop, tydopnemer, Suid-Afrikaanse Spoorweë en Hawens, Germiston, hierdie tydperk by sy pensioendraende diens gevoeg te word.

70. Die diensonderbreking van A. A. Ford, fitter, Suid-Afrikaanse Spoorweë en Hawens, vanaf 20 Maart 1920 tot 28 Maart 1920 verskoon te word, nie as pensioendraende diens geldende nie maar aan hom die voordeel van sy vorige pensioendraende diens vir pensioendoeleindes latende by betaling van die lid se bydraes verskuldig kragtens Wet No. 24 van 1925 saam met samegestelde rente daarop teen vyf persent per jaar.

71. Item No. 113 van die Bylae tot die Pensioene Aanvullings Wet, 1935, ten opsigte van 'n toekenning aan A. H. Simmons gewysig te word deur toevoeging na die woorde „terugbetaal word” van die volgende woorde—

„saam met rente op die verskil tussen die bedrae betaal aan ‚die Fonds’ en ‚die Nuwe Fonds’ (Wet No. 24 van 1925) en dié betaalbaar aan die Kaapse Staatsdiens-pensioenfonds, sodanige rente bereken te word teen die koers van die rente van tyd tot tyd gekrediteer op die balanse van ‚die Fonds’ en ‚die Nuwe Fonds’.”

72. Die toekenning aan F. P. Cillie, voorheen inspekteur van skole, van 'n pensioen van £63 per jaar ten opsigte van sy onderwysdiens, met ingang vanaf 1 Januarie 1935, as 'n las op die Kaapse Provinsiale Administrasie.

73. Die toekenning aan P. L. de Jager wat in die Anglo-Boereoorlog en in latere krygsverrigtings gedien het, van 'n pensioen van £60 per jaar, met ingang vanaf 1 April 1936.

74. Die toekenning aan Elena P. Boshoff, weduwee van F. Boshoff, voorheen lid van die Volksraad van die Suid-Afrikaanse Republiek, van 'n pensioen van £50 per jaar, betaalbaar gedurende weduweeskap, met ingang vanaf 1 April 1936.

75. Die toekenning aan Charlotte L. Ferguson, weduwee van H. D. Ferguson, gedurende die Anglo-Boereoorlog geskiet, van 'n pensioen van £36 per jaar, betaalbaar gedurende weduweeskap, met ingang vanaf 1 April 1936.

76. Die toekenning aan J. H. Lynch, ex No. 291, sersant-majoor, S.A.S.C., van 'n pensioen van £30 per jaar, tot sodanige tyd as wat hy die deur die Ouderdomspensioenwet, 1928, voorgeskrewe ouderdom bereik, met ingang vanaf 1 April 1936.

77. The award to A. Nguza, formerly acting headman, Native Affairs Department, of a pension of £5 per annum, with effect from 1st May, 1935.

78. The award to Elizabeth Grivell, widow of W. J. Grivell, formerly a member of the Cape Rural Police, of such pension, with effect from 1st April, 1936, as she would have been entitled to had the provisions of section *fifty-five* of the Public Service and Pensions Act No. 27 of 1923, been applicable to her case.

79. The award to Daisy W. Hall, widow of the late W. C. Hall, formerly excise officer, Department of Customs and Excise, in lieu of the payment made to her in terms of section *forty* of Act No. 27 of 1923, of such pension as she would have been entitled to had the circumstances of the case conformed to the requirements of section *forty-three* of that Act.

80. The pension of F. J. Verster, formerly an instructor, School for Blind, Worcester, to be increased from £135 per annum to £240 per annum, with effect from date of retirement.

81. Subject to the recovery of an amount equal to four per cent. of his emoluments from the 1st July, 1894, the pension of W. D. King, formerly blacksmith, Robben Island, to be increased to £149 4s. per annum, with effect from the date of retirement.

82. The pension of D. J. Swart, formerly constable, South African Police, to be increased to £125 8s. per annum, with effect from 1st April, 1936.

83. The pension awarded to G. H. Muller, ex No. 3138, shoeing smith, S.A.M.R., to be increased from £50 per annum to £89 per annum, with effect from 1st April, 1935.

84. The pension awarded to D. Dudumashe, ex-headman, Native Affairs Department, to be increased from £10 per annum to £18 per annum, with effect from 1st April, 1936.

85. The pension awarded to Davelina H. Mills, widow of C. A. Brink, under Item No. 61 of the Pensions (Supplementary) Act, 1921, to be increased to the rate laid down in the Fourth Schedule to the War Special Pensions Act, 1919, for the widow of a warrant officer Class 1, with effect from the 1st April, 1919.

86. The pension of J. Madimabe, formerly native interpreter-messenger, Department of Justice, to be increased, with effect from date of retirement, to such amount as would have been payable had the whole period of his service counted for pension purposes.

87. The award to Henrietta J. Webster, widow of R. W. Webster, ex No. 657, driver, S.A.S.C.M.T., of the pension to which she would have been entitled had the circumstances of her case conformed to the requirements of section *sixteen* of the War Special Pensions Act, 1919.

88. The alternative pension at the rate of £257 14s. per annum drawn by Rose A. Russell, widow of ex-captain S. A. Russell, 4th South African Infantry, in terms of the War Special Pensions Act, 1919, to be effective as from 1st April, 1919.

89. The award to Lillian M. Gilson, widow of the late H. J. Gilson, ex No. 11938, a sergeant, 4th South African Infantry, of the pension to which she would have been entitled had the circumstances of her case conformed to the requirements of section *sixteen* of the War Special Pensions Act, 1919.

90. The award to Freda Barnes, widow of F. A. Barnes, ex No. 15598, private, 1st South African Infantry, of the pension to which she would have been entitled had the circumstances of her case conformed to the requirements of section *sixteen* of the War Special Pensions Act, 1919.

91. The award to Elizabeth Chipperfield, widow of G. B. Chipperfield, ex No. 1175, C.Q.M. sergeant, 8th S.A.I., of the pension to which she would have been entitled had the circumstances of her case conformed to the requirements of section *sixteen* of the War Special Pensions Act, 1919.

92. The award to Bessie Murray, widow of R. Murray, ex No. 434, lance-corporal, South African Light Horse, of the pension to which she would have been entitled had the circumstances of her case conformed to the requirements of section *sixteen* of the War Special Pensions Act, 1919.

93. The award to Irene Rowan, widow of W. A. Rowan, captain, General List, of the pension to which she would have been entitled had the circumstances of her case conformed to the requirements of section *sixteen* of the War Special Pensions Act, 1919.

94. The award to Constance B. Charsley, widow of W. J. Charsley, ex No. V. 398, sapper, Miscellaneous Trades Company, of the pension to which she would have been entitled had the circumstances of her case conformed to the requirements of section *sixteen* of the War Special Pensions Act, 1919.

95. The award to Rachel Kelly, widow of H. E. Kelly, formerly a driver, S.A.S.C.M.T., of an allowance of £24 per annum, in respect of each of her minor children, with effect from 18th June, 1935, such allowances to be subject to the provisions of sub-section (2) of section *six* of the War Special Pensions Act, 1919.

96. The award to Maria H. Ellis, widow of J. A. Ellis, formerly 1st class warrant officer, South African Instructional Corps, for and on behalf of her minor children, of £24 per annum in respect of each such minor child until they respectively attain the age of 16 years, with effect from 7th April, 1935.

97. The award to G. W. van Zyl, ex-rifleman, 1st Eastern Rifles, of such allowance as would have been payable had the circumstances of his case conformed to the requirements of sub-section (2) of section *twelve* of the War Special Pensions Act, 1919, with effect from the 12th November, 1935, and of such alternative pension as would have been payable under the provisions of that Act, had his pre-war earnings amounted to £6 (six pounds) per week, with effect from 1st April, 1936.

77. Die toekenning aan A. Nguza, voorheen waarnemende hoofman Naturellesake-departement, van 'n pensioen van £5 per jaar, met ingang vanaf 1 Mei 1935.

78. Die toekenning aan Elizabeth Grivell, weduwee van W. J. Grivell, voorheen lid van die Kaapse landelike polisie, van sodanige pensioen, met ingang vanaf 1 April 1936, as waartoe sy geregtig sou gewees het as die bepalings van artikel *vyf-en-vyftig* van die Staatsdienst en Pensioen Wet No. 27 van 1923, op haar geval van toepassing was.

79. Die toekenning aan Daisy W. Hall, weduwee van wyle W. C. Hall, voorheen aksynsbeampte, Departement van Doeane en Aksyns, in plaas van die aan haar kragtens artikel *veertig* van Wet No. 27 van 1923 gedane betaling, van sodanige pensioen as waartoe sy geregtig sou gewees het as die omstandighede van die geval aan die vereistes van artikel *drie-en-veertig* van daardie Wet voldoen het.

80. Die pensioen van F. J. Verster, voorheen instrukteur, blindeskool, Worcester, van £135 per jaar tot £240 per jaar verhoog te word, met ingang vanaf datum van uitdienstreding.

81. Onderhewig aan die terugbetaling van 'n bedrag gelyk aan vier persent van sy emolumente vanaf 1 Julie 1894, die pensioen van W. D. King, voorheen smid, Robbeneiland, tot £149 4s. per jaar verhoog te word, met ingang vanaf datum van uitdienstreding.

82. Die pensioen van D. J. Swart, voorheen konstabel, Suid-Afrikaanse Polisie, tot £125 8s. per jaar verhoog te word, met ingang vanaf 1 April 1936.

83. Die pensioen toegeken aan G. H. Muller, ex No. 3138, hoefsmid, S.A.B.S., van £50 per jaar tot £89 per jaar verhoog te word, met ingang vanaf 1 April 1935.

84. Die pensioen toegeken aan D. Dudumashe, gewese hoofman, Naturellesake-departement, van £10 per jaar tot £18 per jaar verhoog te word, met ingang vanaf 1 April 1936.

85. Die pensioen toegeken aan Davelina H. Mills, weduwee van C. A. Brink, onder item No. 61 van die Pensioenen (Aanvullings) Wet, 1921 verhoog te word tot die skaal vasgestel in die Vierde Bylae tot die Oorlogs Speciale Pensioenen Wet, 1919, vir die weduwee van 'n adjudant-onderoffisier klas 1, met ingang vanaf 1 April 1919.

86. Die pensioen aan J. Madimabe, voorheen natuurlike-tolkbode, Departement van Justisie, met ingang vanaf datum van uitdienstreding tot sodanige bedrag verhoog te word as wat betaalbaar sou gewees het as die gehele tydperk van sy diens vir pensioendoeleindes in aanmerking gekom het.

87. Die toekenning aan Henrietta J. Webster, weduwee van R. W. Webster, ex No. 657, drywer, S.A.S.C.M.T., van die pensioen waartoe sy geregtig sou gewees het as die omstandighede van haar geval aan die vereistes van artikel *sestien* van die Oorlogs Speciale Pensioenen Wet, 1919, voldoen het.

88. Die alternatiewe pensioen teen 'n skaal van £257 14s. per jaar, getrek deur Rose A. Russell, weduwee van gewese kaptein S. A. Russell, Vierde Suid-Afrikaanse Infanterie, kragtens die Oorlogs Speciale Pensioenen Wet, 1919, van krag te wees vanaf 1 April 1919.

89. Die toekenning aan Lilian M. Gilson, weduwee van wyle H. J. Gilson, ex No. 11938, sersant, Vierde Suid-Afrikaanse Infanterie, van die pensioen waartoe sy geregtig sou gewees het as die omstandighede van haar geval aan die vereistes van artikel *sestien* van die Oorlogs Speciale Pensioenen Wet, 1919, voldoen het.

90. Die toekenning aan Freda Barnes, weduwee van F. A. Barnes, ex No. 15598, manskap, Eerste Suid-Afrikaanse Infanterie, van die pensioen waartoe sy geregtig sou gewees het as die omstandighede van haar geval aan die vereistes van artikel *sestien* van die Oorlogs Speciale Pensioenen Wet, 1919, voldoen het.

91. Die toekenning aan Elizabeth Chipperfield, weduwee van G. B. Chipperfield, ex No. 1175, C.Q.M. sersant, Agste Suid-Afrikaanse Infanterie, van die pensioen waartoe sy geregtig sou gewees het as die omstandighede van haar geval aan die vereistes van artikel *sestien* van die Oorlogs Speciale Pensioenen Wet, 1919, voldoen het.

92. Die toekenning aan Bessie Murray, weduwee van R. Murray, ex No. 434, onderkorporaal, S.A.L.H., van die pensioen waartoe sy geregtig sou gewees het as die omstandighede van haar geval aan die vereistes van artikel *sestien* van die Oorlogs Speciale Pensioenen Wet, 1919, voldoen het.

93. Die toekenning aan Irene Rowan, weduwee van W. A. Rowan, kaptein, algemene lys, van die pensioen waartoe sy geregtig sou gewees het as die omstandighede van haar geval aan die vereistes van artikel *sestien* van die Oorlogs Speciale Pensioenen Wet, 1919, voldoen het.

94. Die toekenning aan Constance B. Charsley, weduwee van W. J. Charsley, ex No. V. 398, sappeur, Diverse Kompanjie, van die pensioen waartoe sy geregtig sou gewees het as die omstandighede van haar geval aan die vereistes van artikel *sestien* van die Oorlogs Speciale Pensioenen Wet, 1919, voldoen het.

95. Die toekenning aan Rachel Kelly, weduwee van H. E. Kelly, voorheen drywer, S.A.S.C.M.T., van 'n toelae van £24 per jaar, ten opsigte van elkeen van haar minderjarige kinders, met ingang vanaf 18 Junie 1935, sodanige toelae aan die bepalings van sub-artikel (2) van artikel *ses* van die Oorlogs Speciale Pensioenen Wet, 1919, onderhewig te wees.

96. Die toekenning aan Maria H. Ellis, weduwee van J. A. Ellis, voorheen adjudant-onderoffisier (1e klas), Suid-Afrikaanse Onderrigskorps, vir en ten behoeve van haar minderjarige kinders van £24 per jaar ten opsigte van elke sodanige minderjarige kind, totdat hulle die ouderdom van sestien jaar onderskeidelik bereik, met ingang vanaf 7 April 1935.

97. Die toekenning aan G. W. van Zyl, gewese skutter, Eerste Oostelike Skutters, van sodanige toelae as wat betaalbaar sou gewees het as die omstandighede van sy geval aan die vereistes van sub-artikel (2) van artikel *tualf* van die Oorlogs Speciale Pensioenen Wet, 1919, voldoen het, met ingang vanaf 12 November 1935, en van sodanige alternatiewe pensioen as wat, kragtens die bepalings van daardie Wet, betaalbaar sou gewees het as sy voor-oorlogse verdienste £6 (ses pond) per week bedra het, met ingang vanaf 1 April 1936.

98. Subject to the provisions of the War Special Pensions Act, 1919, J. J. Fourie, ex-private, 4th South African Infantry, to be awarded such alternative pension as would have been payable had his pre-war earnings amounted to £6 (six pounds) per week, with effect from 1st April, 1936.

99. Subject to the provisions of the War Special Pensions Act, 1919, W. F. Harris, ex-No. 5207, lance-corporal, 1st South African Infantry, to be awarded such alternative pension as would have been payable had his pre-war earnings amounted to £5 (five pounds) per week, with effect from 1st April, 1936.

100. Subject to the provisions of the War Special Pensions Act, 1919, J. C. Doherty, ex No. 7198, private, 1st South African Infantry, to be awarded such alternative pension as would have been payable had his pre-war earnings amounted to £4 10s. per week, with effect from 1st April, 1936.

101. Subject to the provisions of the War Special Pensions Act, 1919, J. C. Wheeler, ex No. 10177, private, 1st South African Infantry, to be awarded such alternative pension as would have been payable had his pre-war earnings amounted to £4 (four pounds) per week, with effect from 1st April, 1936.

102. The award to H. C. Ackermann, burgher, Pretoria Commando, who was wounded on active service during the Anglo-Boer war, of such compensation as would have been awarded to him had the domiciliary requirements of the War Special Pensions Act, 1919, been met, subject, however, to the case conforming in all other respects to the provisions of the Act, with effect from 1st April, 1936.

103. The award to C. C. de V. Maasdorp, ex No. 14550, private, 5th South African Infantry, with effect from 1st April, 1936, of the compensation to which he would have been entitled under the provisions of the War Special Pensions Act, 1919, had application been made therefor prior to the 1st April, 1932.

104. The award to C. J. Botha, No. 1344, conductor, S.A.S.C., with effect from 1st April, 1936, of the compensation to which he would have been entitled under the provisions of the War Special Pensions Act, 1919, had application been made therefor prior to 1st April, 1932.

105. The award to D. F. du Toit, of the compensation to which he would have been entitled under the provisions of the War Special Pensions Act, 1919, had application been made therefor prior to 1st April, 1927, with effect from 1st April, 1936.

106. The award to B. D. Marais, Heidelberg Commando, who was wounded on service during the Anglo-Boer war, of the compensation to which he would have been entitled under the provisions of Chapter VI of the War Special Pensions Act, 1919, had application been made therefor prior to 1st April, 1927, with effect from 1st April, 1936.

107. The award to F. E. Mentz, burgher, Anglo-Boer war, of such compensation as would have been payable under Chapter VI of the War Special Pensions Act, 1919, as if application therefor had been made prior to 1st April, 1927, with effect from 1st April, 1936.

108. The pension awarded to J. A. Spruyt, burgher, Frankfort Commando, in terms of Chapter VI of the War Special Pensions Act, 1919, to be restored with effect from the 1st July, 1923.

109. The award to C. J. B. Schoeman, formerly constable, South African Police, of such amount as would have been payable had the provisions of section *fifty (c)* of Act No. 27 of 1923, as amended by Act No. 7 of 1929, been applicable to his case.

110. The award to Violet V. Leslie, widow of A. W. Leslie, formerly judge, Native High Court, Natal, of a gratuity of £933 7s.

111. The award to Eve Downes, widow of S. T. Downes, formerly headmaster, Education Department, of a gratuity of £648 6s. 9d.

112. The award to Mary C. Grace, widow of the late Dr. G. Grace, who was accidentally killed in 1914, of a further gratuity of £565 12s. 6d.

113. The award to Marie N. Dodd, widow of W. Dodd, formerly examiner, Customs and Excise Department, of a gratuity of £400.

114. The award to Eugenie L. Hulley, widow of D. J. C. Hulley, formerly magistrate, Department of Justice, of a gratuity of £386 14s.

115. The award to Katherine Phelan, widow of T. Phelan, formerly senior assistant, Post and Telegraph Department, of a gratuity of £267.

116. The award to Grace A. Welfare, widow of A. H. Welfare, formerly assistant superintendent, Post and Telegraph Department, of a gratuity of £255 12s.

117. The award to D. J. Watson, clerk, Department of Finance, on his retirement of a gratuity of £205 3s. 4d. in lieu of the gratuity that would be payable in terms of paragraph (b) of Treasury Circular No. 57 of 1921.

118. The award to Catherine Fabian, widow of W. J. Fabian, formerly employed by the Public Roads Department, Natal, of a gratuity of £171 16s. as a charge against the Natal Provincial Administration.

119. The award to Emma Pretorius, widow of A. J. Pretorius, formerly studgroom and labourer, Department of Agriculture, of a gratuity of £100.

120. The award to F. S. Nelson, formerly district locust officer, Department of Agriculture, of a gratuity of £100.

121. The award to F. Zeelie, in respect of injuries sustained whilst employed as a labourer in the Forest Department, of a gratuity of £58 6s. 8d.

122. The award to J. S. de Meillon, formerly a Transvaal Republican Official, of a gratuity of £50.

123. The award to Petrus van der Merwe, formerly employed by the Department of Agriculture and Forestry, of an additional gratuity of £43 18s. in respect of the injuries sustained in the execution of his duties on the 12th July, 1933.

98. Behoudens die bepalings van die Oorlogs Speciale Pensioenen Wet, 1919, aan J. J. Fourie, gewese manskap, Vierde Suid-Afrikaanse Infanterie, sodanige alternatiewe pensioen toegeken te word as wat betaalbaar sou gewees het as sy voor-oorlogse verdienste £6 (ses pond) per week bedra het, met ingang vanaf 1 April 1936.

99. Behoudens die bepalings van die Oorlogs Speciale Pensioenen Wet, 1919, aan W. F. Harris, ex No. 5207, onderkorporaal, Eerste Suid-Afrikaanse Infanterie, sodanige alternatiewe pensioen toegeken te word as wat betaalbaar sou gewees het as sy voor-oorlogse verdienste £5 (vyf pond) per week bedra het, met ingang vanaf 1 April 1936.

100. Behoudens die bepalings van die Oorlogs Speciale Pensioenen Wet, 1919, aan J. C. Doherty, ex No. 7198, manskap, Eerste Suid-Afrikaanse Infanterie, sodanige alternatiewe pensioen toegeken te word as wat betaalbaar sou gewees het as sy voor-oorlogse verdienste £4 10s. per week bedra het, met ingang vanaf 1 April 1936.

101. Behoudens die bepalings van die Oorlogs Speciale Pensioenen Wet, 1919, aan J. C. Wheeler, ex No. 10177, manskap, Eerste Suid-Afrikaanse Infanterie, sodanige alternatiewe pensioen toegeken te word as wat betaalbaar sou gewees het as sy voor-oorlogse verdienste £4 (vier pond) per week bedra het, met ingang vanaf 1 April 1936.

102. Die toekenning aan H. C. Ackermann, burger, Pretoria-kommando op aktiewe diens gedurende die Anglo-Boereoorlog gewond, van sodanige vergoeding as wat aan hom toegeken sou gewees het as aan die domilium-vereistes van die Oorlogs Speciale Pensioenen Wet, 1919, voldoen was, mits die geval in alle ander opsigte aan die bepalings van die Wet voldoen, met ingang vanaf 1 April 1936.

103. Die toekenning aan C. C. de V. Maasdorp, ex No. 14550, manskap, Vyfde Suid-Afrikaanse Infanterie, met ingang vanaf 1 April 1936, van die vergoeding waartoe hy kragtens die bepalings van die Oorlogs Speciale Pensioenen Wet, 1919, geregtig sou gewees het indien voor 1 April 1932 daarom aansoek gedoen was.

104. Die toekenning aan C. J. Botha, No. 1344, kontroleur, S.A.S.C., met ingang vanaf 1 April 1936, van die vergoeding waartoe hy kragtens die bepalings van die Oorlogs Speciale Pensioenen Wet, 1919, geregtig sou gewees het indien voor 1 April 1932 daarom aansoek gedoen was.

105. Die toekenning aan D. F. du Toit van die vergoeding waartoe hy kragtens die bepalings van die Oorlogs Speciale Pensioenen Wet, 1919, geregtig sou gewees het indien voor 1 April 1927 daarom aansoek gedoen was, met ingang vanaf 1 April 1936.

106. Die toekenning aan B. D. Marais, Heidelberg-kommando, op diens gedurende die Anglo-Boereoorlog gewond, van die vergoeding waartoe hy kragtens die bepalings van Hoofstuk VI van die Oorlogs Speciale Pensioenen Wet, 1919, geregtig sou gewees het indien voor 1 April 1927 daarom aansoek gedoen was, met ingang vanaf 1 April 1936.

107. Die toekenning aan F. E. Mentz, burger, Anglo-Boereoorlog, van sodanige vergoeding as wat kragtens Hoofstuk VI van die Oorlogs Speciale Pensioenen Wet, 1919, betaalbaar sou gewees het indien voor 1 April 1927 daarom aansoek gedoen was, met ingang vanaf 1 April 1936.

108. Die pensioen toegeken aan J. A. Spruyt, burger, Frankfort-kommando, kragtens Hoofstuk VI van die Oorlogs Speciale Pensioenen Wet, 1919, herstel te word, met ingang vanaf 1 Julie 1923.

109. Die toekenning aan C. J. B. Schoeman, voorheen konstabel, Suid-Afrikaanse Polisie, van sodanige bedrag as wat betaalbaar sou gewees het indien die bepalings van artikel vyftig (c) van Wet No. 27 van 1923, soos deur Wet No. 7 van 1929 gewysig, op sy geval van toepassing was.

110. Die toekenning aan Violet V. Leslie, weduwee van A. W. Leslie, voorheen regter, Naturelle-hoëhof, Natal, van 'n gratifikasie van £933 7s.

111. Die toekenning aan Eve Downes, weduwee van S. T. Downes, voorheen hoofonderwyser, Departement van Onderwys, van 'n gratifikasie van £648 6s. 9d.

112. Die toekenning aan Mary C. Grace, weduwee van wyle Dr. G. Grace, in 1914 in 'n ongeluk gedood, van 'n verdere gratifikasie van £565 12s. 6d.

113. Die toekenning aan Marie N. Dodd, weduwee van W. Dodd, voorheen ondersoeker, Departement van Doeane en Aksyns, van 'n gratifikasie van £400.

114. Die toekenning aan Eugenie L. Hulley, weduwee van D. J. C. Hulley, voorheen magistraat, Departement van Justisie, van 'n gratifikasie van £386 14s.

115. Die toekenning aan Katherine Phelan, weduwee van T. Phelan, voorheen senior-assistent, Departement van Poswese en Telegrafie, van 'n gratifikasie van £267.

116. Die toekenning aan Grace A. Welfare, weduwee van A. H. Welfare voorheen assistent-superintendent, Departement van Poswese en Telegrafie, van 'n gratifikasie van £255 12s.

117. Die toekenning aan D. J. Watson, klerk, Departement van Finansies, by sy uitdienstreding van 'n gratifikasie van £205 3s. 4d. in plaas van die gratifikasie wat kragtens paragraaf (b) van Tesourie-omsendbrief No. 57 van 1921 betaalbaar sou wees.

118. Die toekenning aan Catherine Fabian, weduwee van W. J. Fabian, voorheen in diens van die Publieke Weë-departement, Natal, van 'n gratifikasie van £171 16s. as 'n las op die Natalse Provinsiale Administrasie.

119. Die toekenning aan Emma Pretorius, weduwee van A. J. Pretorius, voorheen stalkneg en werksman, Departement van Landbou en Bosbou, van 'n gratifikasie van £100.

120. Die toekenning aan F. S. Nelson, voorheen distriks-sprinkaan-beampte, Departement van Landbou en Bosbou, van 'n gratifikasie van £100.

121. Die toekenning aan F. Zeelie, ten opsigte van beserings opgedoen terwyl hy as arbeider in die Departement van Bosbou diens gedoen het, van 'n gratifikasie van £58 6s. 8d.

122. Die toekenning aan J. S. de Meillon, voorheen Transvaal Republikeinse beampte, van 'n gratifikasie van £50.

123. Die toekenning aan Petrus van der Merwe, voorheen in diens van die Departement van Landbou en Bosbou, van 'n addisionele gratifikasie van £43 18s. ten opsigte van die beserings op 12 Julie 1933 tydens pligsvervulling opgedoen.

124. The award to G. Ngoobo, formerly native postboy, Post and Telegraph Department, of a gratuity of £19 10s.

125. The award to G. Geertsema, formerly constable, South African Police, of a gratuity equivalent to the amount contributed by him to the Union Services Pension Fund.

126. The award to Henrietta Hein, sister of the late C. E. Hein, formerly stores assistant, Post and Telegraph Department, of a gratuity equivalent to the difference between the amount of deceased's contributions to the Cape Civil Service Pension Fund and the amount of pension paid to him to date of death.

127. The award to Mildred E. M. Kerchoff, ex-telephonist, Post and Telegraph Department, of a gratuity in terms of section *sixty-eight* of the Public Service Pensions Act, 1923, based on service from 1st July, 1925, to date of retirement.

128. The award to P. H. Rothman, formerly clerk, Post and Telegraph Department, of a gratuity equivalent to the amount of contributions paid by him to the Transvaal Administrative and Clerical Service Pension Fund.

129. The refund to D. du Preez, formerly teacher, Cape Education Department, of the contributions paid by him to the Cape Teachers' Pension Fund prior to 1930, as a charge against the Cape Provincial Administration.

130. The payment to J. E. Douwes, formerly a constable, South African Police, of the medical expenses incurred by him in 1931, in connection with the injury which necessitated his retirement from the Public Service.

131. The break in service of J. M. Theunissen, carpenter instructor, Department of Agriculture and Forestry, from 1st April, 1931, to 20th August, 1931, to be condoned, being regarded as special leave without pay, not counting as service but preserving to him the benefit of his previous service for pension purposes, subject to the repayment by him of the gratuity of £138 3s. 4d. paid to him on retirement.

132. The break in service of L. T. Sondlo, native constable, South African Police, from 1st February, 1934, to 3rd December, 1934, be condoned, being regarded as special leave without pay, not counting as service, but preserving to him the benefit of his previous service for pension purposes.

133. That P. W. M. Rogers, teacher, Education Department (Cape), be permitted to complete the payment of the arrear pension contributions due, but unpaid by him at the expiration of the period prescribed by Ordinance No. 17 of 1930 on such terms and conditions as the Administrator of the Cape Province may determine.

134. That the period 1st October, 1892, to the 20th August, 1896, be added to the pensionable service of J. A. Venning, director of Posts and Telegraphs, South-West Administration, in the computation of pension payable on retirement.

135. The award to Gertrude Cory, widow of Sir George E. Cory, of a pension of £120 per annum, with effect from 1st April, 1936, payable during widowhood.

136. The award to Daisy M. B. Schwarz, widow of Professor E. H. L. Schwarz, of a pension of £120 per annum, with effect from 1st April, 1936, payable during widowhood.

137. The award to Beatrice M. Bennett, widow of C. K. Bennett, captain, 6th S.A.I., of a pension of £100 per annum, with effect from 11th March, 1936, payable during widowhood.

138. The pension of Aletta Brits, widow of Lieutenant-General C. J. Brits, to be increased from £120 per annum to £210 per annum, with effect from 1st April, 1936.

139. The award to Emma Kelly (widow), of Green Point, of such pension as she would have been entitled to had she satisfied the requirements of paragraph (d) of section *one* of the Old Age Pensions Act (No. 22) of 1928, as amended by Act No. 34 of 1931, and with effect from 1st April, 1936.

140. The award to Catherine E. Duff, widow of the late F. Duff, private, 1st S.A.I., of the pension to which she would have been entitled had the circumstances of her case conformed to the requirements of section *sixteen* of the War Special Pensions Act, 1919.

141. The award to Janet H. Peat, widow of W. H. Peat, private, Kimberley Town Guard, of the pension to which she would have been entitled had the circumstances of her case conformed to the requirements of section *forty-five* (3) of the War Special Pensions Act, 1919, with effect from 1st April, 1936.

142. Subject to the provisions of the War Special Pensions Act, No. 42 of 1919, as amended by Act No. 41 of 1920, G. V. Wild, ex-private No. 117, Bloemhof Commando, be awarded such alternative pension as would have been payable had his pre-war earnings amounted to £187 10s. per annum, with effect from 1st April, 1936.

143. Subject to the provisions of the War Special Pensions Act, No. 42 of 1919, as amended by Act No. 41 of 1920, A. Reynolds, ex No. 727, sergeant S.A.M.R., be awarded such alternative pension as would have been payable had his pre-war earnings amounted to £6 per week, with effect from 1st April, 1936.

144. The award to P. J. Botha of the compensation to which he would have been entitled under the provisions of the War Special Pensions Act, 1919, had application been made therefor prior to 1st April, 1927, with effect from 1st April, 1936.

145. The award to J. A. Louw of the compensation to which he would have been entitled under the provisions of the War Special Pensions Act, 1919, had application been made therefor prior to 1st April, 1927, with effect from 1st April, 1936.

146. The award to J. G. Vermeulen, of the compensation to which he would have been entitled under the provisions of the War Special Pensions Act, 1919, had application been made therefor prior to 1st April, 1927, with effect from 1st April, 1936.

124. Die toekenning aan G. Ngcobo, voorheen naturelle-posbode, Departement van Poswese en Telegrafie, van 'n gratifikasie van £19 10s.

125. Die toekenning aan G. Geertsema, voorheen konstabel, Suid-Afrikaanse Polisie, van 'n gratifikasie gelyk aan die bedrag deur hom tot die Uniedienste-pensioenfonds bygedra.

126. Die toekenning aan Henrietta Hein, suster van wyle C. E. Hein, voorheen magasynbediende, Departement van Poswese en Telegrafie, van 'n gratifikasie gelyk aan die verskil tussen die bedrag van die oorledene se bydraes tot die Kaapse Staatsdiens-pensioenfonds en die bedrag pensioen aan hom tot datum van oorlyde betaal.

127. Die toekenning aan Mildred E. M. Kerchoff, gewese telefoniste, Departement van Poswese en Telegrafie, van 'n gratifikasie kragtens artikel *agt-en-sestig* van die Staatsdiens en Pensioen Wet, 1923, gebaseer op diens vanaf 1 Julie 1925 tot datum van uitdienstreding.

128. Die toekenning aan P. H. Rothman, voorheen klerk, Departement van Poswese en Telegrafie, van 'n gratifikasie gelyk aan die bedrag deur hom aan die Transvaalse Administratiewe en Klerklike Diens-pensioenfonds aan bydraes betaal.

129. Die terugbetaling aan D. du Preez, voorheen onderwyser, Kaapse Onderwys-departement, van die bydraes deur hom aan die Kaapse Onderwysers-pensioenfonds voor 1930 betaal, as 'n las op die Kaapse Provinsiale Administrasie.

130. Die betaling aan J. E. Douwes, voorheen konstabel, Suid-Afrikaanse Polisie, van die geneeskundige onkoste deur hom in 1931 behoel in verband met die besering wat sy uitdienstreding uit die Staatsdiens genoodsaak het.

131. Die diensonderbreking van J. M. Theunissen, timmerman-instrukteur, Departement van Landbou en Bosbou, vanaf 1 April 1931 tot 20 Augustus 1931, verskoon te word en as spesiale verlof sonder betaling beskou te word, nie as diens geldende nie maar aan hom die voordeel van sy vorige diens vir pensioendoeleindes latende, onderhewig aan terugbetaling deur hom van die gratifikasie van £138 3s. 4d. aan hom by uitdienstreding betaal.

132. Die diensonderbreking van L. T. Sondlo, naturellekonstabel, Suid-Afrikaanse Polisie, vanaf 1 Februarie 1934 tot 3 Desember 1934, verskoon te word en as spesiale verlof sonder betaling beskou te word, nie as diens geldende nie maar aan hom die voordeel van sy vorige diens vir pensioendoeleindes latende.

133. P. W. M. Rogers, onderwyser, Kaapse Onderwys-departement, veroorloof te word om die betaling te voltooi van die agterstallige pensioenbydraes verskuldig maar nie deur hom betaal by verstryking van die tydperk voorgeskryf by Ordonnansie No. 17 van 1930 op sodanige voorwaardes en bepalinge as wat die Administrateur van die Kaap-provinsie vasstel.

134. Die tydperk 1 Oktober 1892 tot 20 Augustus 1896 by die pensioendraende diens van J. A. Venning, direkteur van Poswese en Telegrafie, Suidwes-administrasie, gevoeg te word by berekening van pensioen by uitdienstreding betaalbaar.

135. Die toekenning aan Gertrude Cory, weduwee van Sir George E. Cory, van 'n pensioen van £120 per jaar, met ingang vanaf 1 April 1936, betaalbaar gedurende weduweeskap.

136. Die toekenning aan Daisy M. B. Schwarz, weduwee van professor E. H. L. Schwarz, van 'n pensioen van £120 per jaar, met ingang vanaf 1 April 1936, betaalbaar gedurende weduweeskap.

137. Die toekenning aan Beatrice M. Bennett, weduwee van C. K. Bennett, kaptein, Sesde Suid-Afrikaanse Infanterie, van 'n pensioen van £100 per jaar, met ingang vanaf 11 Maart 1936, betaalbaar gedurende weduweeskap.

138. Die pensioen van Aletta Brits, weduwee van Luitenant-Generaal C. J. Brits, van £120 per jaar tot £210 per jaar verhoog te word, met ingang vanaf 1 April 1936.

139. Die toekenning aan Emma Kelly, weduwee, van Groenpunt, van sodanige pensioen as waartoe sy geregtig sou gewees het as sy aan die vereistes van paragraaf (d) van artikel *een* van die Ouderdomspensioenwet, No. 22 van 1928, soos deur Wet No. 34 van 1931 gewysig, voldoen het, met ingang vanaf 1 April 1936.

140. Die toekenning aan Catherine E. Duff, weduwee van wyle F. Duff, manskap, Eerste Suid-Afrikaanse Infanterie, van die pensioen waartoe sy geregtig sou gewees het as die omstandighede van haar geval aan die vereistes van artikel *sestien* van die Oorlogs Speciale Pensioenen Wet, 1919, voldoen het.

141. Die toekenning aan Janet H. Peat, weduwee van W. H. Peat, manskap, Kimberley-stadwag, van die pensioen waartoe sy geregtig sou gewees het as die omstandighede van haar geval aan die vereistes van artikel *vyf-en-veertig* (3) van die Oorlogs Speciale Pensioenen Wet, 1919, voldoen het, met ingang vanaf 1 April 1936.

142. Behoudens die bepalinge van die Oorlogs Speciale Pensioenen Wet, 1919, soos deur Wet No. 41 van 1920 gewysig, aan G. V. Wild, oudmanskap No. 117, Bloemhof-kommando, sodanige alternatiewe pensioen toegeken te word as wat betaalbaar sou gewees het as sy vooroorlogse verdienste £187 10s. per jaar bedra het, met ingang vanaf 1 April 1936.

143. Behoudens die bepalinge van die Oorlogs Speciale Pensioenen Wet, 1919, soos deur Wet No. 41 van 1920 gewysig, aan A. Reynolds, ex No. 727, sersant, S.A.B.S., sodanige alternatiewe pensioen toegeken te word as wat betaalbaar sou gewees het as sy vooroorlogse verdienste £6 per week bedra het, met ingang vanaf 1 April 1936.

144. Die toekenning aan P. J. Botha, van die vergoeding waartoe hy kragtens die bepalinge van die Oorlogs Speciale Pensioenen Wet, 1919, geregtig sou gewees het indien voor 1 April 1927 daarom aansoek gedoen was, met ingang vanaf 1 April 1936.

145. Die toekenning aan J. A. Louw van die vergoeding waartoe hy kragtens die bepalinge van die Oorlogs Speciale Pensioenen Wet, 1919, geregtig sou gewees het indien voor 1 April 1927 daarom aansoek gedoen was, met ingang vanaf 1 April 1936.

146. Die toekenning aan J. G. Vermeulen van die vergoeding waartoe hy kragtens die bepalinge van die Oorlogs Speciale Pensioenen Wet, 1919, geregtig sou gewees het indien voor 1 April 1927 daarom aansoek gedoen was, met ingang vanaf 1 April 1936.

147. The award to C. A. Blom, No. 5071, private, 20th Mounted Rifles, with effect from 1st April, 1935, of the compensation to which he would have been entitled under the provisions of the War Special Pensions Act, 1919, had application been made therefor prior to 1st April, 1932, and payment of such amount in respect of medical expenses incurred as may be recommended by the Military Pensions Board.

148. The award to G. Hunt, ex No. 5721, private, 9th S.A. Horse, with effect from 1st April, 1936, of the compensation to which he would have been entitled under the provisions of the War Special Pensions Act, 1919, had application been made therefor prior to 1st April, 1932.

149. The award to G. T. S. Goulding, ex No. 14284, private, 6th S.A.I., with effect from 1st April, 1936, of the compensation to which he would have been entitled under the provisions of the War Special Pensions Act, 1919, in respect of his mental condition, as if application had been made therefor prior to 1st April, 1932.

150. The award to Johanna C. Viljoen, widow of H. J. Viljoen, burgher, Potchefstroom Commando, Anglo-Boer war, of the gratuity to which she would have been entitled had the circumstances of her case conformed to the requirements of section *twenty-six* (2) of the War Special Pensions Act, 1919.

151. The award to Mrs. H. Howard for and on behalf of the minor children of the late Adam Petersen, formerly storeboy, Post and Telegraph Department, of a gratuity of £39 9s. payable in twelve monthly instalments with effect from 1st April, 1936.

152. The award to Maria M. Moller, widow of the late C. J. Moller, No. 2625, coloured constable, South African Police, of a gratuity of £31 6s. 8d.

153. The award to G. J. F. Coetzee, formerly constable, South African Police, of a gratuity equivalent to the amount contributed by him to the Union Services Pension Fund.

154. Subject to the repayment of the gratuity of £183 15s. previously paid to A. Peiser, Irrigation Department, his service from 13th March, 1898, to 30th September, 1907, to be added to subsequent pensionable service in the computation of the pension to be paid to him on final retirement.

155. The pension of F. S. Steyn, formerly clerk, Department of Justice, to be increased from £155 14s. to £195 14s. per annum, with effect from 1st April, 1936.

156. The award to F. J. Rheeder, formerly a commandant during the Anglo-Boer war, of a pension of £60 per annum, with effect from 1st April, 1936.

157. The award to H. G. Stuart, ex-judge of the O.F.S. Republic, of a pension of £300 per annum, with effect from 1st April, 1936.

158. That Josephine C. le Camp, formerly shorthand-typiste, Surveyor-General's Office, Cape Town, to be regarded as having been an officer as defined in section *twenty-two* of Act No. 27 of 1923, that she be awarded a gratuity of £200 and that her pension be increased to £91 12s. per annum, with effect from the 6th January, 1933.

159. That the pensions of the following persons be computed as if the provisions of section *thirty-five* (3) of Act No. 27 of 1923 were applicable with effect from their respective dates of retirement:

R. Rigby, formerly head male nurse, Valkenberg Mental Hospital.
 J. McIntosh, formerly senior vocational assistant and inspector of works, Alexandra Institution for Feeble-minded.
 A. L. Lomax, formerly charge male nurse, Alexandra Institution for Feeble-minded.
 J. Lineker, formerly head male nurse, Valkenberg Mental Hospital.
 P. Commins, formerly charge male nurse, Valkenberg Mental Hospital.
 Margaret G. Thomson, formerly matron, Valkenberg Mental Hospital.
 M. McKevitt, formerly charge male nurse, Valkenberg Mental Hospital.
 C. S. Still, formerly head male nurse, Valkenberg Mental Hospital.

160. The award to the undermentioned persons of the compensation shown opposite their respective names, the annuities to be paid with effect from 1st April, 1935:

| Name. | Gratuity. | Annuity. |
|-------------------------------|-----------|----------|
| Bok, P. J. F. R. | £100 | £72 |
| Daly, Mrs. J. G. H. | £100 | £72 |
| Knipe, R. A. | £100 | £84 |
| Mommsen, I. J. | £100 | £84 |
| Theunissen, M. W. | £100 | £84 |
| Wolhuter, B. A. de V. | £100 | £84 |
| Harms, O. P. J. L. | £100 | — |
| Schuyt, J. J. | £100 | — |
| Walkenhorst, S. | £100 | — |
| Wolmarans, G. J. H. | £100 | — |

161. The award to Mrs. Gladys T. Elias, widow of W. A. Elias, formerly Chief Committee Clerk, House of Assembly, of a pension of £150 per annum, payable during widowhood, and £30 per annum in respect of her minor son until he attains the age of 18 years, with effect from 1st April, 1936.

162. The award to Wilhelmina Ross, widow of J. J. C. Ross, formerly a cleaner on the Joint Establishment of the Houses of Parliament, of a gratuity of £100, payable in instalments of £5 per month, with effect from 1st April, 1936.

163. The award to Col. Thomas Lyttleton de Havilland, C.M.G., D.S.O., Serjeant-at-Arms, House of Assembly, of a pension of £630 per annum, with effect from date of retirement.

147. Die toekenning aan C. A. Blom, No. 5071, manskap, Twintigste Berede Skutters, met ingang vanaf 1 April 1935, van die vergoeding waartoe hy kragtens die bepalings van die Oorlogs Speciale Pensioenen Wet, 1919, geregtig sou gewees het indien voor 1 April 1932 daarom aansoek gedoen was, en betaling van sodanige bedrag ten opsigte van geneeskundige onkoste aangegaan, as wat deur die Militêre pensioene-raad aanbeveel word.

148. Die toekenning aan G. Hunt, ex No. 5721, manskap, Negende Suid-Afrikaanse Ruiters, met ingang vanaf 1 April 1936, van die vergoeding waartoe hy kragtens die bepalings van die Oorlogs Speciale Pensioenen Wet, 1919, geregtig sou gewees het indien voor 1 April 1932 daarom aansoek gedoen was.

149. Die toekenning aan G. T. S. Goulding, ex No. 14284, manskap, Sesde Suid-Afrikaanse Infanterie, met ingang vanaf 1 April 1936, van die vergoeding waartoe hy kragtens die bepalings van die Oorlogs Speciale Pensioenen Wet, 1919, geregtig sou gewees het ten opsigte van sy geestestoestand, asof voor 1 April 1932 daarom aansoek gedoen was.

150. Die toekenning aan Johanna C. Viljoen, weduwee van H. J. Viljoen, burger, Potchefstroom-kommando, Anglo-Boereoorlog, van die gratifikasie waartoe sy geregtig sou gewees het as die omstandighede van haar geval aan die vereistes van artikel *ses-en-twintig* (2) van die Oorlogs Speciale Pensioenen Wet, 1919, voldoen het.

151. Die toekenning aan Mev. H. Howard, vir en ten behoewe van die minderjarige kinders van wyle Adam Petersen, voorheen magasyn-bediende, Departement van Poswese en Telegrafie, van 'n gratifikasie van £39 9s., betaalbaar in twaalf maandelikse paaiemente, met ingang vanaf 1 April 1936.

152. Die toekenning aan Maria M. Moller, weduwee van wyle C. J. Moller, No. 2625, kleurling-konstabel, Suid-Afrikaanse Polisie, van 'n gratifikasie van £31 6s. 8d.

153. Die toekenning aan G. J. F. Coetzee, voorheen konstabel, Suid-Afrikaanse Polisie, van 'n gratifikasie gelyk aan die bedrag deur hom tot die Uniedienste-pensioenfonds bygedra.

154. Behoudens terugbetaling van die gratifikasie van £183 15s. tevore uitbetaal aan A. Peiser, Besproeiingsdepartement, sy diens vanaf 13 Maart 1898 tot 30 September 1907 by latere pensioendraende diens gevoeg te word by berekening van die pensioen aan hom by uiteindelijke uitdienstreding betaal te word.

155. Die pensioen van F. S. Steyn, voorheen klerk, Departement van Justisie, van £155 14s. tot £195 14s. per jaar verhoog te word met ingang vanaf 1 April 1936.

156. Die toekenning aan F. J. Rheeder, kommandant gedurende die Anglo-Boereoorlog, van 'n pensioen van £60 per jaar, met ingang vanaf 1 April 1936.

157. Die toekenning aan H. G. Stuart, oud-regter van die Oranje-Vrystaatse Republiek, van 'n pensioen van £300 per jaar, met ingang vanaf 1 April 1936.

158. Josephine C. le Camp, voorheen snelskriftikster, Landmeter-generaal se Kantoor, Kaapstad, beskou te word 'n beampete soos omskryf in artikel *twee-en-twintig* van Wet No. 27 van 1923 te gewees het, 'n gratifikasie van £200 aan haar toegeken te word en haar pensioen tot £91 12s. per jaar verhoog te word, met ingang vanaf 6 Januarie 1933.

159. Die pensioen van die volgende persone bereken te word asof die bepalings van artikel *vyf-en-dertig* (3) van Wet No. 27 van 1923 van toepassing was, met ingang vanaf hulle onderskeie datums van uitdienstreding :

- R. Rigby, voorheen hoofverpleger, Valkenberg-kranksinnigegestig.
- J. McIntosh, voorheen senior beroepsassistent en werksinspekteur, Alexandra-inrigting vir swaksinniges.
- A. L. Lomax, voorheen toesighoudende verpleger, Alexandra-inrigting vir swaksinniges.
- J. Lincker, voorheen hoofverpleger, Valkenberg-kranksinnigegestig.
- P. Commins, voorheen toesighoudende verpleger, Valkenberg-kranksinnigegestig.
- Margaret G. Thomson, voorheen matrone (Valkenberg-kranksinnigegestig).
- M. McKevitt, voorheen toesighoudende verpleger, Valkenberg-kranksinnigegestig.
- C. S. Still, voorheen hoofverpleger, Valkenberg-kranksinnigegestig.

160. Die toekenning aan ondergenoemde persone van die vergoeding aangegee teenoor hulle onderskeie name, die jaargelde betaal te word met ingang vanaf 1 April 1935 :

| Naam. | Gratifikasie. | Jaargeld. |
|-----------------------------|---------------|-----------|
| Bok, P. J. F. R. | £100 | £72 |
| Daly, Mev. J. G. H. | £100 | £72 |
| Knipe, R. A. | £100 | £84 |
| Mommsen, I. J. | £100 | £84 |
| Theunissen, M. W. | £100 | £84 |
| Wolhuter, B. A. de V. | £100 | £84 |
| Harms, O. P. J. L. | £100 | — |
| Schuyt, J. J. | £100 | — |
| Walkenhorst, S. | £100 | — |
| Wolmarans, G. J. H. | £100 | — |

161. Die toekenning aan Mevr. Gladys T. Elias, weduwee van W. A. Elias, voorheen Hoofkomiteeklerk, Volksraad, van 'n pensioen van £150 per jaar, betaalbaar gedurende weduweeskap, en £30 per jaar ten opsigte van haar minderjarige seun tot hy die ouderdom van 18 jaar bereik, met ingang vanaf 1 April 1936.

162. Die toekenning aan Wilhelmina Ross, weduwee van J. J. C. Ross, voorheen 'n skoonmaker in die Gesamentlike Parlementêre Diens, van 'n gratifikasie van £100 wat in paaiemente van £5 per maand betaalbaar sal wees, met ingang vanaf 1 April 1936.

163. Die toekenning aan Kol. Thomas Lyttleton de Havilland, C.M.G., D.S.O., Serjeant-at-Arms, Volksraad, van 'n pensioen van £630 per jaar, met ingang vanaf datum van uitdienstreding.

No. 27, 1936.]

ACT

To increase the annuities due to certain persons who were retired from the service of the Railway Administration, and to exclude those persons from certain provisions of the Railways and Harbours Superannuation Fund Act, 1925.

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

Increase in pensions of certain retired railway servants.

1. Any person who on the first day of January, 1930, was in the service of the Railway Administration and who was during the period from that date to the thirty-first day of December, 1933, on the initiative of the said Administration retired from that service on the ground of reduction in, or reorganisation of the said Administration's staff, or the abolition of an office or to facilitate improvements in the said service and to whom an annuity was awarded by reason of such retirement, shall be entitled as from the first day of April, 1936, to an addition (to be paid out of the revenues of the said Administration) to his said annuity, equal to the difference between that annuity and the annuity (hereinafter referred to as the increased annuity) to which he would have been entitled if—

- (a) he had continued in the said service until the date upon which he would have reached the age of superannuation prescribed by law; and
- (b) he had, throughout the period between the date of his retirement and the date mentioned in paragraph (a) drawn pensionable emoluments equal to the average of the annual emoluments on the basis whereof the said annuity was calculated; and
- (c) he had made, during that period, in respect of those emoluments, the prescribed contributions to the appropriate pension fund, upon the making whereof his right to the increased annuity would have depended, but he had not, in terms of section *forty* of the Railways and Harbours Service Act, 1912 (Act No. 28 of 1912) made any additional contributions to the Railways and Harbours Superannuation Fund mentioned in section *twenty-four* of that Act:

Provided that no portion of the said addition to an annuity shall be commutable to a single cash payment.

Section 44 of Act 24 of 1925 not to apply on re-employment of pensioners.

2. (1) If a person mentioned in section *one* was, after the thirty-first day of December, 1933, re-employed in the said service, the provisions of section *forty-four* of the Railways and Harbours Superannuation Fund Act, 1925, shall not apply to him and he shall not in respect of any such service after such re-employment be obliged or entitled to contribute to or be entitled to derive any benefit from any pension fund established in terms of any law, to which any person in the service of the said Administration is obliged or entitled to contribute.

(2) The provisions of sub-section (1) shall be deemed to have come into operation on the first day of January, 1934.

Short title.

3. This Act shall be called the Railway Pensioners Act, 1936.

No. 27, 1936.]

WET

Tot verhoging van die jaargelde wat toekom aan sekere uit die diens van die Spoorwegadministrasie afgedankte persone en tot onttrekking van daardie persone aan sekere bepalings van die „Spoorwegen en Havens Superannuatie Fonds Wet, 1925”.

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

1. Iemand wat op die eerste dag van Januarie 1930 in diens van die Spoorwegadministrasie was en wat gedurende die tydperk vanaf daardie dag tot die een-en-dertigste dag van Desember 1933 op aandrang van bedoelde Administrasie uit daardie diens afgedank is op grond van vermindering of reorganisasie van die personeel van bedoelde Administrasie of weens afskaffing van 'n amp of om verbeterings in bedoelde diens te vergemaklik en aan wie 'n jaargeld toegeken is om rede van daardie afdanking, is geregtig op 'n verhoging van sy voormelde jaargeld, vanaf die eerste dag van April 1936 gelyk aan die verskil tussen daardie jaargeld en die jaargeld (hieronder die verhoogde jaargeld genoem) waarop hy geregtig sou gewees het as—

- (a) hy in bedoelde diens aangehou was tot op die dag waarop hy die wetlik voorgeskrewe afdankingsouderdom sou bereik het; en
- (b) hy gedurende die hele tydperk tussen sy afdanking en die dag bedoel in paragraaf (a), in genot gewees was van pensioengewende verdienste gelyk aan die gemiddelde jaarlikse verdienste op die grondslag waarvan bedoelde jaargeld bereken is; en
- (c) hy gedurende daardie tydperk op daardie verdienste in die betrokke pensioenfonds die bydraes gestort had, waarvan sy reg op die verhoogde jaargeld afhanklik sou gewees het, dog hy nie volgens artikel *veertig* van die „Spoorweg- en Havendienst Wet, 1912” (Wet No. 28 van 1912) bykomende bydraes gestort had nie in die Spoorweë en Havens Superannuasiefonds vermeld in artikel *vier-en-twintig* van daardie wet:

Met dien verstande dat geen deel van voormelde verhoging van 'n jaargeld in 'n enkele betaling in kontant omgesit kan word nie.

2. (1) As iemand bedoel in artikel *een* na die een-en-dertigste dag van Desember 1933 weer in voormelde diens aangestel is, dan is die bepalings van artikel *vier-en-veertig* van die „Spoorwegen en Havens Superannuatie Fonds Wet, 1925” nie op hom van toepassing nie en is hy nie verplig of geregtig nie om in verband met sodanige diens na daardie weeraanstelling by te dra tot 'n kragtens een of ander wet gestigte pensioenfonds, waartoe iemand in diens van voormelde Administrasie verplig of geregtig is om by te dra, en nie geregtig om uit so 'n fonds 'n voordeel te trek nie.

(2) Die bepalings van sub-artikel (1) word geag op die eerste dag van Januarie 1934 in werking te getree het.

3. Hierdie Wet heet die Spoorwegpensioenariswet, 1936.

Kort titel.

Verhoging van pensioene van sekere afgedankte spoorweg-beamptes.

Artikel 44 van Wet 24 van 1925 is nie van toepassing by weeraanstelling van pensioenarisse.

No. 28, [1936.]

ACT

To provide for the control of the sugar industry by agreements entered into between growers, millers and refiners of sugar or by determinations made by the Minister of Commerce and Industries, the control of the prices at which certain sugars may be sold or disposed of, and for matters incidental thereto.

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

Publication of agreements between growers, millers and refiners.

1. (1) If the Minister is satisfied—

(a) that an agreement has been entered into, whether before or after the commencement of this Act, between representatives of growers, millers and refiners, in which provision is made—

(i) for a formula for determining a base price of sugar and for fixing, on the basis of such base price, the prices to be paid for sugar cane by millers to growers;

(ii) for the regulation and restriction of the production of sugar cane and sugar, the regulation and control of the marketing and export of sugar, and the nature of the obligations of the various growers, millers and refiners in connection therewith;

(iii) for the establishment of a board for the purpose of carrying out the agreement and for exercising such functions as may be assigned to such board thereunder; and

(iv) for any other matter affecting the sugar industry, the inclusion of which in the agreement is approved or required by the Minister;

(b) that such agreement has been approved—

(i) by not less than ninety per cent. of growers who have together produced not less than ninety per cent. of the total weight of sugar cane produced in the Union by growers during the twelve months ending upon the thirty-first day of December of the year preceding the year in which the agreement has been entered into; and

(ii) by millers who have together manufactured not less than ninety per cent. of the total weight of sugar manufactured in the Union by millers during the said twelve months; and

(c) that it would be in the public interest to publish the agreement under the provisions of this Act,

he may publish the agreement in the *Gazette*.

(2) In calculating, for the purposes of sub-paragraph (ii) of paragraph (b) of sub-section (1), the total weight of sugar manufactured in the Union, the weight to be included in such total weight shall, in the case of raw sugar which has been refined, be the weight of the raw sugar.

(3) If an agreement amending an agreement published under sub-section (1) is entered into between representatives of growers, millers and refiners, the Minister may, if he is satisfied that the amending agreement has been approved in the manner set forth in paragraph (b) of sub-section (1), and that it would be in the public interest to publish the amending agreement under the provisions of this Act, publish the amending agreement in the *Gazette*.

(4) On the publication of the agreement or amending agreement in the *Gazette*, it shall become binding upon every

No. 28, 1936.]

WET

Om voorsiening te maak vir die beheer van die suikernywerheid deur middel van ooreenkomste aangegaan tussen suikerplanters, -meulenaars en -raffineerders, of deur middel van vasstellings neergelê deur die Minister van Handel en Nywerheid, vir die beheer van die pryse waarteen sekere suikersoorte verkoop of van die hand gesit mag word, en vir daarmee in verband staande sake.

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

1. (1) Indien die Minister oortuig is—

(a) dat 'n ooreenkoms aangegaan is, hetsy voor of na die inwerkingtreding van hierdie Wet, tussen verteenwoordigers van planters, meulenaars en raffineerders, waarin voorsiening gemaak word—

Publikasie van ooreenkomste tussen planters, meulenaars en raffineerders.

(i) vir 'n formule om 'n basis-prys vir suiker te bepaal, en vir die vasstelling op die grondslag van sodanige basis-prys, van die pryse wat deur meulenaars aan planters vir suikerriet betaal moet word;

(ii) vir die reëling en beperking van die produksie van suikerriet en suiker, die reëling en beheer van die bemarking en uitvoer van suiker, en die aard van die verpligtings van die onderskeie planters, meulenaars en raffineerders in verband daarmee;

(iii) vir die instelling van 'n raad met die doel om die ooreenkoms uit te voer en om sulke werksaamhede te verrig as wat aan daardie raad uit kragte daarvan toegewys mog word; en

(iv) vir enige ander aangeleentheid wat die suikernywerheid raak waarvan die opname in die ooreenkoms deur die Minister goedgekeur of vereis word;

(b) dat bedoelde ooreenkoms goedgekeur is—

(i) deur minstens negentig persent van die planters wat tesame minstens negentig persent van die totaalgewig van suikerriet geproduseer het wat gedurende die twaalf maande eindigende op die een-en-dertigste dag van Desember van die jaar wat die jaar waarin die ooreenkoms aangegaan is, voorafgaan, in die Unie deur planters geproduseer is; en

(ii) deur meulenaars wat tesame minstens negentig persent van die totaalgewig van suiker vervaardig het wat gedurende daardie twaalf maande in die Unie deur meulenaars vervaardig is; en

(c) dat dit in die openbare belang sou wees om die ooreenkoms kragtens die bepalings van hierdie Wet te publiseer,

kan hy die ooreenkoms in die *Staatskoerant* publiseer.

(2) Die gewig wat, in die geval van ru-suiker wat geraffineer geword is, by die berekening, vir die doeleindes van subparagraaf (ii) van paragraaf (b) van sub-artikel (1), van die totaalgewig van suiker in die Unie vervaardig, by daardie totaalgewig ingereken moet word, is die gewig van die ru-suiker.

(3) Indien 'n ooreenkoms wat 'n kragtens sub-artikel (1) gepubliseerde ooreenkoms wysig, aangegaan word tussen verteenwoordigers van planters, meulenaars en raffineerders, kan die Minister, as hy oortuig is dat die wysigende ooreenkoms op die wyse in paragraaf (b) van sub-artikel (1) vermeld, goedgekeur is, en dat dit in die openbare belang sou wees om die wysigende ooreenkoms kragtens die bepalings van hierdie Wet te publiseer, die wysigende ooreenkoms in die *Staatskoerant* publiseer.

(4) By publikasie van die ooreenkoms of wysigende ooreenkoms in die *Staatskoerant*, word dit bindend vir elke planter

by such millers and refiners, bears to the total quantity of sugar manufactured by such millers during that year.

(3) Whenever the board receives or makes in respect of any year any estimate in connection with the quantity of sugar which—

- (a) will be exported in terms of any such agreement, determination or amendment; or
- (b) will be sold at a rebate to manufacturers referred to in paragraph (b) of sub-section (2); or
- (c) will be manufactured,

by millers to whom quotas have been assigned as described in that sub-section, or by refiners, as the case may be, it shall inform every miller referred to in sub-section (1) of the particulars of such estimate.

(4) For the purposes of sub-section (2), the total quantities of sugar which, according to the final estimate made by the board in respect of any year, have during that year been exported, sold or manufactured as described in sub-section (3), shall be deemed to be the total quantities of sugar so exported, sold or manufactured, as the case may be.

(5) No miller shall be relieved of his obligations under sub-section (2) in respect of any sugar by reason of the fact that he is unable to acquire such sugar by purchase.

Power of
Minister to
prescribe sugar
prices, maximum
output of white
sugar and grade
of sugar to be
sold at fixed
price.

6. (1) The Minister may by notice in the *Gazette*—

- (a) prescribe that the maximum price at which refined sugars may be sold or disposed of by retail by any person in Durban, East London, Port Elizabeth, Mossel Bay and Cape Town, for consumption in the Union, shall not exceed three and one half pence per pound and that the maximum price at which all or any grades of mill white sugars may be so sold or disposed of in the said places, shall not exceed threepence farthing per pound;
- (b) prescribe that the maximum price at which any particular grade of sugar, other than a refined sugar or a mill white sugar for which a maximum price has been prescribed under paragraph (a), may be sold or disposed of by retail by any person in any of the places referred to in paragraph (a) and in all places situated within a radius of five miles from any railway station, siding or halt, for consumption in the Union, shall not exceed twopence halfpenny per pound;
- (c) after enquiry by the Board of Trade and Industries, prescribe the prices at which sugars may be sold or disposed of by retail in the Union or in any portion thereof, for consumption therein: Provided that in the case of any grade of sugar for which a maximum price has been prescribed under paragraph (a) or (b), the price prescribed under this paragraph shall not, at the places referred to in paragraph (a) or (b), as the case may be, exceed such maximum price
- (d) if upon investigation he is satisfied that the base price of sugar as determined for any year for the purpose of fixing the prices to be paid for sugar cane under any agreement or determination published under section *one* or *two* and in force during that year, has exceeded twelve pounds per ton, prescribe a reduced price at which all or any grades of sugar shall be sold or disposed of by manufacturers for consumption in the Union and the mandated territory;
- (e) determine the maximum quantity of white sugar which may be sold or disposed of by millers and refiners for consumption in the Union and the mandated territory in any one year during the period during which any agreement or determination under section *one* or *two* is in force;
- (f) prescribe a grade of sugar which shall, during any year in respect of which a maximum price for a particular grade of sugar has been prescribed under paragraph (b), be sold by millers for consumption

aan bedoelde fabrikante deur bedoelde meulenaars en raffineerders verkoop staan tot die totale hoeveelheid suiker gedurende daardie jaar deur bedoelde meulenaars vervaardig.

(3) Wanneer die raad ten opsigte van enige jaar 'n skatting ontvang of maak in verband met die hoeveelheid suiker wat—

- (a) ingevolge so 'n ooreenkoms, vasstelling of wysiging uitgevoer sal word; of
- (b) teen 'n korting aan die in paragraaf (b) van sub-artikel (2) bedoelde fabrikante verkoop sal word; of
- (c) vervaardig sal word,

deur meulenaars aan wie kwotas toegeken is soos in daardie sub-artikel beskryf, of deur raffineerders, na gelang van die geval, moet hy die besonderhede van so 'n skatting meedeel aan iedere meulenaar in sub-artikel (1) bedoel.

(4) Die totale hoeveelheid suiker wat, volgens die finale skatting deur die raad ten opsigte van enige jaar gemaak, gedurende daardie jaar uitgevoer, verkoop of vervaardig is soos beskryf in sub-artikel (3), word vir die doeleindes van sub-artikel (2), geag die totale hoeveelhede suiker te wees wat, na gelang van die geval, aldus uitgevoer, verkoop of vervaardig is.

(5) Geen meulenaar word van sy verpligtings ingevolge sub-artikel (2) ten opsigte van suiker bevry van weë die feit dat hy nie in staat is om bedoelde suiker deur aankoop te verkry nie.

6. (1) Die Minister kan by kennisgewing in die *Staatskoerant*—

- (a) voorskryf dat die maksimum-prys waarteen geraffineerde suikersoorte deur enig iemand in Durban, Oos-Londen, Port Elizabeth, Mosselbaai en Kaapstad by die kleinmaat vir verbruik in die Unie verkoop of van die hand gesit mag word, drie en 'n halfpennie per pond nie mag te bowe gaan nie, en dat die maksimum-prys waarteen alle of enige grade van meulwit suikersoorte aldus op vermelde plekke verkoop of van die hand gesit mag word, drie en 'n kwartpennie per pond nie te bowe gaan nie;
- (b) voorskryf dat die maksimum-prys waarteen 'n bepaalde graad suiker (behalwe 'n geraffineerde suiker of 'n meulwit suiker waarvoor 'n maksimum-prys kragtens paragraaf (a) voorgeskryf is) deur enig iemand op die in paragraaf (a) vermelde plekke en op alle plekke wat binne 'n omtrek van vyf myl vanaf 'n spoorwegstasie, -sylyn of -halte geleë is, by die kleinmaat vir verbruik in die Unie verkoop of van die hand gesit mag word, twee en 'n halfpennie per pond nie mag te bowe gaan nie;
- (c) na ondersoek deur die Raad van Handel en Nywerheid, die pryse voorskryf waarteen suikersoorte in die Unie of in 'n deel daarvan by die kleinmaat vir verbruik daarin verkoop of van die hand gesit mag word: Met dien verstande dat in die geval van 'n graad suiker waarvoor 'n maksimum-prys kragtens paragraaf (a) of (b) voorgeskryf is, die kragtens hierdie paragraaf voorgeskrewe prys op die plekke in paragraaf (a) of (b), na gelang van die geval, bedoel, daardie maksimum-prys nie te bowe gaan nie;
- (d) indien hy na ondersoek oortuig is dat die basis-prys vir suiker, soos vir enige jaar bepaal met die doel om die pryse wat, ingevolge 'n ooreenkoms of vasstelling kragtens artikel een of twee gepubliseer en gedurende daardie jaar van krag, vir suikerriet betaal moet word, vas te stel, twaalf pond per ton te bowe gegaan het, 'n verminderde prys voorskryf waarteen alle of enige grade suiker deur fabrikante vir verbruik in die Unie en die mandaatgebied verkoop of van die hand gesit moet word;
- (e) die maksimum hoeveelheid wit suiker vasstel wat gedurende die tydperk gedurende welke 'n ooreenkoms of vasstelling ingevolge artikel een of twee van krag is, in die loop van een jaar deur meulenaars en raffineerders vir verbruik in die Unie en die mandaatgebied verkoop of van die hand gesit mag word;
- (f) 'n graad suiker voorskryf wat, gedurende enige jaar ten opsigte waarvan 'n maksimum-prys vir 'n bepaalde graad suiker kragtens paragraaf (b) voorgeskryf is, deur meulenaars vir verbruik in die

Mag van Minister om suikerpryse, die maksimum-produksie van wit suiker en 'n graad suiker wat teen 'n vasgestelde prys verkoop moet word, voor te skryf.

Regulations.

11. (1) The Governor-General may make regulations for the better carrying out of the objects and provisions of this Act and of any agreement or determination or amendment thereof which has been published under section *one* or *two*.

(2) Any regulations made under this section may prescribe penalties for any contravention thereof or failure to comply therewith not exceeding imprisonment for a period of six months together with a fine of fifty pounds.

Repeal of
Act 47 of 1926
and section 11
of Act 25 of
1932.

12. The Sugar Prices Act, 1926, and section *eleven* of the Financial Adjustments Act, 1932, are hereby repealed.

Interpretation
of terms.

13. In this Act, unless inconsistent with the context—

“the board” means the board established under any agreement or determination published under section *one* or *two*;

“grower” means a person who produces sugar cane for the purpose of the manufacture of sugar: Provided that for the purposes of paragraph (b) of subsection (1) of section *one*, “grower” shall not include—

- (i) a person of non-European descent; or
- (ii) a person who manufactures sugar; or
- (iii) a person who is a director of a company which manufactures sugar; or
- (iv) a partnership, syndicate or company in which a person who manufactures sugar or who is a director of a company which manufactures sugar holds an interest of more than one-third;

“mandated territory” means the mandated territory of South-West Africa;

“miller” means a person who manufactures sugar from sugar cane;

“Minister” means the Minister of Commerce and Industries;

“refiner” means a person who converts raw sugar into refined sugar at a refinery;

“refined sugar” means all such sugars of refined quality as have been refined by the bone-char-filter, the vegetable-carbon or the carbonatation process;

“year” means a period of twelve months ending upon the thirtieth day of April.

Short title.

14. This Act shall be called the Sugar Act, 1936.

11. (1) Die Goewerneur-generaal kan regulasies uitvaardig vir die betere uitvoering van die doeleindes en bepalings van hierdie Wet en van 'n kragtens artikel *een* of *twee* gepubliseerde ooreenkoms of vasstelling of wysiging daarvan. Regulasies.

(2) Regulasies kragtens hierdie artikel uitgevaardig kan vir 'n oortreding daarvan of versuim om daaraan te voldoen strawwe voorskryf van hoogstens ses maande gevangenisstraf tesame met 'n boete van vyftig pond.

12. Die Wet op Suikerpryse, 1926, en artikel *elf* van die Finansiële Reëlswet, 1932, word hiermee herroep.

Herroeping van
Wet 47 van
1926 en artikel
11 van Wet
25 van 1932.

13. In hierdie Wet, tensy uit die samehang anders blyk, beteken— Woordoms krywing.

„die raad” die raad ingevolge 'n kragtens artikel *een* of *twee* gepubliseerde ooreenkoms of vasstelling ingestel;

„planter” iemand wat suikerriet produseer vir die vervaardiging van suiker: Met dien verstande dat „planter” volgens die betekenis van paragraaf (b) van sub-artikel (1) van artikel *een* nie insluit nie—

- (i) iemand van nie-blanke afkoms; of
- (ii) iemand wat suiker vervaardig; of
- (iii) iemand wat 'n direkteur is van 'n maatskappy wat suiker vervaardig; of
- (iv) 'n vennootskap, sindikaat of maatskappy waarin iemand wat suiker vervaardig of wat 'n direkteur is van 'n maatskappy wat suiker vervaardig, 'n belang besit van meer as een-derde;

„mandaatgebied” die mandaatgebied Suidwes-Afrika;

„meulenaar” iemand wat suiker uit suikerriet vervaardig;

„Minister” die Minister van Handel en Nywerheid;

„raffineerder” iemand wat in 'n raffinadery ru-suiker omsit in geraffineerde suiker;

„geraffineerde suiker” al sulke suikersoorte van geraffineerde kwaliteit as wat geraffineer is deur middel van die been-kool-filtreer-, die houtskool-, of die karboneer-proses;

„jaar” 'n tydperk van twaalf maande eindigende op die dertigste dag van April.

14. Hierdie Wet heet die Suikerwet, 1936.

Kort titel.

No. 29, 1936.]

ACT

To ratify agreements entered into between the Government of the Union and the Governments of Southern Rhodesia and Northern Rhodesia for the amendment of the trade and customs agreements in force between the Government of the Union and the Governments of Southern Rhodesia and Northern Rhodesia, respectively.

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

Ratification of amendment of Union-Southern Rhodesia trade agreement.

1. The agreement entered into between the Government of the Union and the Government of Southern Rhodesia, to amend the trade agreement a copy of which is set forth in the Schedule to the Union and Southern Rhodesia Trade Agreement Act, 1935 (Act No. 14 of 1935), in the following respects, that is to say—

(a) to substitute in paragraph (2) of Article V for the words "free on rail" the words "wet weight paid at auction", with effect from the first day of July, 1936; and

(b) to add at the end of the Schedule to the agreement, referred to in Article II thereof—

(i) with effect from the first day of April, 1935, the items—

"Precious metal concentrates. Meatmeal"; and

(ii) with effect from the first day of April, 1936, the item—

"Publicity literature (*i.e.*, advertising matter relating to fairs, exhibitions and travel)",

is hereby ratified and confirmed, and the said Act shall be construed accordingly.

Ratification of amendment of Union-Northern Rhodesia customs agreement.

2. The agreement entered into between the Government of the Union and the Government of Northern Rhodesia, to amend the customs agreement a copy of which is set forth in the Second Schedule to the Union and Rhodesia Customs Agreements Act, 1930 (Act No. 17 of 1930), in the following respects, that is to say—

(a) to substitute in Article IX for the word "twelve" the word "fifteen", and for the word "six" the word "ten", with effect from the first day of April, 1935;

(b) to add at the end of the first paragraph of that article the words "with the exception of electrolytic copper and zinc removed on and after the first day of October, 1935, and with the further exception of publicity literature (*i.e.* advertising matter relating to fairs, exhibitions and travel), removed on and after the first day of April, 1936"; and

(c) to add at the end of the second paragraph of that article the words "and also to the corresponding classes of goods manufactured in the Union and removed to Northern Rhodesia from Southern Rhodesia, provided that payment in respect of such goods shall be made only on those removed after the thirtieth day of June, 1935",

is hereby ratified and confirmed, and the said Act shall be construed accordingly.

Short title.

3. This Act shall be known as the Union and Rhodesia Agreements (Amendments) Act, 1936.

No. 28, 1936.]

WET

Om voorsiening te maak vir die beheer van die suikernywerheid deur middel van ooreenkomste aangegaan tussen suikerplanters, -meulenaars en -raffineerders, of deur middel van vasstellings neergelê deur die Minister van Handel en Nywerheid, vir die beheer van die pryse waarteen sekere suikersoorte verkoop of van die hand gesit mag word, en vir daarmee in verband staande sake.

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

1. (1) Indien die Minister oortuig is—

(a) dat 'n ooreenkoms aangegaan is, hetsy voor of na die inwerkingtreding van hierdie Wet, tussen verteenwoordigers van planters, meulenaars en raffineerders, waarin voorsiening gemaak word—

Publikasie van ooreenkomste tussen planters, meulenaars en raffineerders.

(i) vir 'n formule om 'n basis-prys vir suiker te bepaal, en vir die vasstelling op die grondslag van sodanige basis-prys, van die pryse wat deur meulenaars aan planters vir suikerriet betaal moet word;

(ii) vir die reëling en beperking van die produksie van suikerriet en suiker, die reëling en beheer van die bemarking en uitvoer van suiker, en die aard van die verpligtings van die onderskeie planters, meulenaars en raffineerders in verband daarmee;

(iii) vir die instelling van 'n raad met die doel om die ooreenkoms uit te voer en om sulke werksaamhede te verrig as wat aan daardie raad uit kragte daarvan toegewys mog word; en

(iv) vir enige ander aangeleentheid wat die suikernywerheid raak waarvan die opname in die ooreenkoms deur die Minister goedgekeur of vereis word;

(b) dat bedoelde ooreenkoms goedgekeur is—

(i) deur minstens negentig persent van die planters wat tesame minstens negentig persent van die totaalgewig van suikerriet geproduseer het wat gedurende die twaalf maande eindigende op die een-en-dertigste dag van Desember van die jaar wat die jaar waarin die ooreenkoms aangegaan is, voorafgaan, in die Unie deur planters geproduseer is; en

(ii) deur meulenaars wat tesame minstens negentig persent van die totaalgewig van suiker vervaardig het wat gedurende daardie twaalf maande in die Unie deur meulenaars vervaardig is; en

(c) dat dit in die openbare belang sou wees om die ooreenkoms kragtens die bepalinge van hierdie Wet te publiseer,

kan hy die ooreenkoms in die *Staatskoerant* publiseer.

(2) Die gewig wat, in die geval van ru-suiker wat geraffineer geword is, by die berekening, vir die doeleindes van sub-paragraaf (ii) van paragraaf (b) van sub-artikel (1), van die totaalgewig van suiker in die Unie vervaardig, by daardie totaalgewig ingereken moet word, is die gewig van die ru-suiker.

(3) Indien 'n ooreenkoms wat 'n kragtens sub-artikel (1) gepubliseerde ooreenkoms wysig, aangegaan word tussen verteenwoordigers van planters, meulenaars en raffineerders, kan die Minister, as hy oortuig is dat die wysigende ooreenkoms op die wyse in paragraaf (b) van sub-artikel (1) vermeld, goedgekeur is, en dat dit in die openbare belang sou wees om die wysigende ooreenkoms kragtens die bepalinge van hierdie Wet te publiseer, die wysigende ooreenkoms in die *Staatskoerant* publiseer.

(4) By publikasie van die ooreenkoms of wysigende ooreenkoms in die *Staatskoerant*, word dit bindend vir elke planter

by such millers and refiners, bears to the total quantity of sugar manufactured by such millers during that year.

(3) Whenever the board receives or makes in respect of any year any estimate in connection with the quantity of sugar which—

- (a) will be exported in terms of any such agreement, determination or amendment; or
- (b) will be sold at a rebate to manufacturers referred to in paragraph (b) of sub-section (2); or
- (c) will be manufactured,

by millers to whom quotas have been assigned as described in that sub-section, or by refiners, as the case may be, it shall inform every miller referred to in sub-section (1) of the particulars of such estimate.

(4) For the purposes of sub-section (2), the total quantities of sugar which, according to the final estimate made by the board in respect of any year, have during that year been exported, sold or manufactured as described in sub-section (3), shall be deemed to be the total quantities of sugar so exported, sold or manufactured, as the case may be.

(5) No miller shall be relieved of his obligations under sub-section (2) in respect of any sugar by reason of the fact that he is unable to acquire such sugar by purchase.

Power of Minister to prescribe sugar prices, maximum output of white sugar and grade of sugar to be sold at fixed price.

6. (1) The Minister may by notice in the *Gazette*—

- (a) prescribe that the maximum price at which refined sugars may be sold or disposed of by retail by any person in Durban, East London, Port Elizabeth, Mossel Bay and Cape Town, for consumption in the Union, shall not exceed three and one half pence per pound and that the maximum price at which all or any grades of mill white sugars may be so sold or disposed of in the said places, shall not exceed threepence farthing per pound;
- (b) prescribe that the maximum price at which any particular grade of sugar, other than a refined sugar or a mill white sugar for which a maximum price has been prescribed under paragraph (a), may be sold or disposed of by retail by any person in any of the places referred to in paragraph (a) and in all places situated within a radius of five miles from any railway station, siding or halt, for consumption in the Union, shall not exceed twopence halfpenny per pound;
- (c) after enquiry by the Board of Trade and Industries, prescribe the prices at which sugars may be sold or disposed of by retail in the Union or in any portion thereof, for consumption therein: Provided that in the case of any grade of sugar for which a maximum price has been prescribed under paragraph (a) or (b), the price prescribed under this paragraph shall not, at the places referred to in paragraph (a) or (b), as the case may be, exceed such maximum price
- (d) if upon investigation he is satisfied that the base price of sugar as determined for any year for the purpose of fixing the prices to be paid for sugar cane under any agreement or determination published under section *one* or *two* and in force during that year, has exceeded twelve pounds per ton, prescribe a reduced price at which all or any grades of sugar shall be sold or disposed of by manufacturers for consumption in the Union and the mandated territory;
- (e) determine the maximum quantity of white sugar which may be sold or disposed of by millers and refiners for consumption in the Union and the mandated territory in any one year during the period during which any agreement or determination under section *one* or *two* is in force;
- (f) prescribe a grade of sugar which shall, during any year in respect of which a maximum price for a particular grade of sugar has been prescribed under paragraph (b), be sold by millers for consumption

aan bedoelde fabrikante deur bedoelde meulenaars en raffineerders verkoop staan tot die totale hoeveelheid suiker gedurende daardie jaar deur bedoelde meulenaars vervaardig.

(3) Wanneer die raad ten opsigte van enige jaar 'n skatting ontvang of maak in verband met die hoeveelheid suiker wat—

- (a) ingevolge so 'n ooreenkoms, vasstelling of wysiging uitgevoer sal word; of
- (b) teen 'n korting aan die in paragraaf (b) van sub-artikel (2) bedoelde fabrikante verkoop sal word; of
- (c) vervaardig sal word,

deur meulenaars aan wie kwotas toegeken is soos in daardie sub-artikel beskryf, of deur raffineerders, na gelang van die geval, moet hy die besonderhede van so 'n skatting meedeel aan iedere meulenaar in sub-artikel (1) bedoel.

(4) Die totale hoeveelheid suiker wat, volgens die finale skatting deur die raad ten opsigte van enige jaar gemaak, gedurende daardie jaar uitgevoer, verkoop of vervaardig is soos beskryf in sub-artikel (3), word vir die doeleindes van sub-artikel (2), geag die totale hoeveelhede suiker te wees wat, na gelang van die geval, aldus uitgevoer, verkoop of vervaardig is.

(5) Geen meulenaar word van sy verpligtings ingevolge sub-artikel (2) ten opsigte van suiker bevry van weë die feit dat hy nie in staat is om bedoelde suiker deur aankoop te verkry nie.

6. (1) Die Minister kan by kennisgewing in die *Staatskoerant*—

- (a) voorskryf dat die maksimum-prys waarteen geraffineerde suikersoorte deur enig iemand in Durban, Oos-Londen, Port Elizabeth, Mosselbaai en Kaapstad by die kleinmaat vir verbruik in die Unie verkoop of van die hand gesit mag word, drie en 'n halfpennie per pond nie mag te bowe gaan nie, en dat die maksimum-prys waarteen alle of enige grade van meulwit suikersoorte aldus op vermelde plekke verkoop of van die hand gesit mag word, drie en 'n kwartpennie per pond nie te bowe mag gaan nie;
- (b) voorskryf dat die maksimum-prys waarteen 'n bepaalde graad suiker (behalwe 'n geraffineerde suiker of 'n meulwit suiker waarvoor 'n maksimum-prys kragtens paragraaf (a) voorgeskryf is) deur enig iemand op die in paragraaf (a) vermelde plekke en op alle plekke wat binne 'n omtrek van vyf myl vanaf 'n spoorwegstasie, -slyn of -halte geleë is, by die kleinmaat vir verbruik in die Unie verkoop of van die hand gesit mag word, twee en 'n halfpennie per pond nie mag te bowe gaan nie;
- (c) na ondersoek deur die Raad van Handel en Nywerheid, die pryse voorskryf waarteen suikersoorte in die Unie of in 'n deel daarvan by die kleinmaat vir verbruik daarin verkoop of van die hand gesit mag word: Met dien verstande dat in die geval van 'n graad suiker waarvoor 'n maksimum-prys kragtens paragraaf (a) of (b) voorgeskryf is, die kragtens hierdie paragraaf voorgeskrewe pryse op die plekke in paragraaf (a) of (b), na gelang van die geval, bedoel, daardie maksimum-prys nie te bowe gaan nie;
- (d) indien hy na ondersoek oortuig is dat die basis-prys vir suiker, soos vir enige jaar bepaal met die doel om die pryse wat, ingevolge 'n ooreenkoms of vasstelling kragtens artikel een of twee gepubliseer en gedurende daardie jaar van krag, vir suikerriet betaal moet word, vas te stel, twaalf pond per ton te bowe gegaan het, 'n verminderde prys voorskryf waarteen alle of enige grade suiker deur fabrikante vir verbruik in die Unie en die mandaatgebied verkoop of van die hand gesit moet word;
- (e) die maksimum hoeveelheid wit suiker vasstel wat gedurende die tydperk gedurende welke 'n ooreenkoms of vasstelling ingevolge artikel een of twee van krag is, in die loop van een jaar deur meulenaars en raffineerders vir verbruik in die Unie en die mandaatgebied verkoop of van die hand gesit mag word;
- (f) 'n graad suiker voorskryf wat, gedurende enige jaar ten opsigte waarvan 'n maksimum-prys vir 'n bepaalde graad suiker kragtens paragraaf (b) voorgeskryf is, deur meulenaars vir verbruik in die

Mag van Minister om suikerpryse, die maksimum-produksie van wit suiker en 'n graad suiker wat teen 'n vasgestelde prys verkoop moet word, voor te skryf.

in the Union and the mandated territory at a maximum price of fourteen pounds ten shillings per ton, free on rail at Durban.

(2) If the Minister has prescribed a grade of sugar under paragraph (f) of sub-section (1) in respect of any year, every miller shall during that year manufacture and sell for consumption in the Union or the mandated territory, and at a price not exceeding the price referred to in the said paragraph, such quantities of sugar of the grade prescribed under the said paragraph and at such times as the board may from time to time require of such miller: Provided that the board shall not during any year require any miller so to manufacture and sell a greater quantity of sugar of the said grade than a quantity which bears the same proportion, according to the estimate of the board, to the total quantity of such sugar which will be so manufactured and sold by millers during that year, as the total quantity of sugar which such miller will manufacture for such consumption during that year bears to the total quantity of sugar which will be manufactured by all millers for such consumption during that year.

(3) The Minister may amend from time to time or revoke any notice issued under this section.

Miller may arrange with other miller to carry out his obligations.

7. Any miller upon whom under the provisions of sub-section (2) of section *five* or under any similar provisions relating to the export of sugar or the sale of sugar to manufacturers by millers, contained in an agreement, determination or amendment thereof published under section *one* or *two*, or under the provisions of sub-section (2) of section *six*, an obligation is imposed, may relieve himself of that obligation by entering into an agreement with a refiner or another miller whereby that refiner or miller undertakes to fulfil that obligation, and thereupon such refiner or other miller shall be subject to that obligation and liable to any penalty provided for the failure to fulfil the same.

Evidence.

8. Proof of publication in the *Gazette* of any agreement or amending agreement under section *one* shall, in the absence of proof of fraud, be conclusive evidence that all the provisions of that section, and of any regulations made under this Act, in respect of matters precedent and incidental to the publication of such agreement or amending agreement, have been complied with.

Penalties.

9. (1) Any person who—

(a) sells or disposes of any sugar under the representation that it is refined sugar whereas in fact it is not such; or

(b) contravenes or fails to comply with the provisions of paragraph (a) or (b) of sub-section (2) of section *five*, or any similar provisions relating to the export of sugar or the sale of sugar to manufacturers by millers, contained in an agreement, determination or amendment thereof published under section *one* or *two*, or the provisions of sub-section (2) of section *six*, or of a notice issued under paragraph (a), (b) (c) or (d) of sub-section (1) of section *six*,

shall be guilty of an offence and liable on conviction to a fine not exceeding one hundred pounds or to imprisonment for a period not exceeding six months, or to both such fine and imprisonment.

(2) If any person is convicted of an offence referred to in paragraph (b) of sub-section (1), other than a contravention or failure to comply with the provisions of a notice issued under paragraph (a), (b) or (c) of sub-section (1) of section *six*, the court convicting him shall enquire into and estimate the amount of the profit made by him in consequence of his having committed such offence, and shall, in addition to any sentence which it may impose under sub-section (1), impose on the person so convicted a fine equal to the amount of the profit which the court so estimates he made in consequence of his having committed such offence.

(3) Notwithstanding anything contained in any other law, magistrates' courts shall have jurisdiction to impose any penalty prescribed by this Act.

Application of Act.

10. The provisions of paragraphs (a), (b) and (c) of sub-section (1) of section *six*, and of paragraph (a) of sub-section (1) of section *nine*, shall not apply to candy, loaf, castor, icing or cube sugar.

Unie en die mandaatgebied verkoop moet word teen 'n maksimum-prys van veertien pond tien sjielings per ton, vry op spoor te Durban.

(2) Indien die Minister ten opsigte van enige jaar ingevolge paragraaf (f) van sub-artikel (1) 'n graad suiker voorgeskryf het, moet iedere meulenaar gedurende daardie jaar sodanige hoeveelhede suiker van die kragtens daardie paragraaf voorgeskrewe graad, en op sodanige tydstippe, as wat die raad van tyd tot tyd van so 'n meulenaar mag vereis, vervaardig en vir verbruik in die Unie of die mandaatgebied verkoop teen 'n prys wat die prys in daardie paragraaf vermeld nie te bowe gaan nie: Met dien verstande dat die raad nie gedurende enige jaar van 'n meulenaar vereis nie dat hy 'n groter hoeveelheid suiker van daardie graad aldus vervaardig en verkoop as 'n hoeveelheid wat, volgens die skatting van die raad, in dieselfde verhouding staan tot die totale hoeveelheid van daardie suiker wat aldus deur meulenaars gedurende daardie jaar vervaardig en verkoop sal word, as dié waarin die totale hoeveelheid suiker wat daardie meulenaar gedurende daardie jaar vir sodanige verbruik sal vervaardig staan tot die totale hoeveelheid suiker wat deur alle meulenaars gedurende daardie jaar vir sodanige verbruik vervaardig sal word.

(3) Die Minister kan 'n kennisgewing kragtens hierdie artikel uitgevaardig van tyd tot tyd wysig, of dit intrek.

7. 'n Meulenaar aan wie ingevolge die bepalings van sub-artikel (2) van artikel vyf, of ingevolge soortgelyke bepalings betreffende die uitvoer van suiker of die verkoop van suiker aan fabrikante deur meulenaars, vervat in 'n kragtens artikel een of twee gepubliseerde ooreenkoms, vasstelling of wysiging daarvan, of ingevolge die bepalings van sub-artikel (2) van artikel ses, 'n verpligting opgelê is, kan homself van daardie verpligting bevry deur 'n ooreenkoms aan te gaan met 'n raffineerder of 'n ander meulenaar waardeur daardie raffineerder of meulenaar onderneem om daardie verpligting na te kom, en daarop berus daardie verpligting op daardie raffineerder of ander meulenaar en is hy strafbaar met enige straf wat bepaal is vir versuim om dit na te kom.

Meulenaar kan met ander meulenaar reël om sy verpligtings na te kom.

8. Bewys van publikasie in die *Staatskoerant* van 'n ooreenkoms of wysigende ooreenkoms ingevolge artikel een is, by gebreke aan bewys van bedrog, afdoende bewys dat aan alle bepalings van daardie artikel, en van enige regulasies kragtens hierdie Wet uitgevaardig, met betrekking tot sake wat die publikasie van bedoelde ooreenkoms of wysigende ooreenkoms voorafgaan en daarmee in verband staan, voldoen is.

Bewyslewing.

9. (1) Iemand wat—

Strafbepalings.

(a) suiker verkoop of van die hand sit onder die voorwendsel dat dit geraffineerde suiker is terwyl dit in werklikheid nie sulks is nie; of

(b) die bepalings van paragraaf (a) of (b) van sub-artikel (2) van artikel vyf, of soortgelyke bepalings betreffende die uitvoer van suiker of die verkoop van suiker aan fabrikante deur meulenaars, vervat in 'n kragtens artikel een of twee gepubliseerde ooreenkoms, vasstelling of wysiging daarvan, of die bepalings van sub-artikel (2) van artikel ses, of van 'n kennisgewing kragtens paragraaf (a), (b), (c) of (d) van sub-artikel (1) van artikel ses uitgevaardig, oortree of versuim om daaraan te voldoen,

is skuldig aan 'n misdryf en by skuldigbevinding strafbaar met 'n boete van hoogstens honderd pond of met gevangenisstraf van hoogstens ses maande, of met beide sodanige boete en gevangenisstraf.

(2) Wanneer iemand skuldig bevind word van 'n misdryf in paragraaf (b) van sub-artikel (1) bedoel, (behalwe 'n oortreding van of versuim om te voldoen aan die bepalings van 'n kennisgewing kragtens paragraaf (a), (b) of (c) van sub-artikel (1) van artikel ses uitgevaardig), moet die hof wat hom skuldig vind ondersoek instel betreffende die wins wat hy behaal het as gevolg daarvan dat hy bedoelde misdryf begaan het, en die bedrag van daardie wins skat, en moet, benewens die vonnis wat hy kragtens sub-artikel (1) mog oplê, op die persoon wat aldus skuldig bevind is 'n boete lê gelyk aan die bedrag van die wins wat hy volgens die skatting van die hof behaal het as gevolg daarvan dat hy bedoelde misdryf begaan het.

(3) Nieteenstaande die bepalings van enige ander wet, is magistraatshowe bevoeg om enige straf in hierdie Wet bepaal op te lê.

10. Die bepalings van paragraawe (a), (b) en (c) van sub-artikel (1) van artikel ses, en van paragraaf (a) van sub-artikel (1) van artikel nege, is nie van toepassing nie op kandy-, brood-, strooi-, glaseer- en klontjiesuiker.

Toepassing van Wet.

Regulations.

11. (1) The Governor-General may make regulations for the better carrying out of the objects and provisions of this Act and of any agreement or determination or amendment thereof which has been published under section *one* or *two*.

(2) Any regulations made under this section may prescribe penalties for any contravention thereof or failure to comply therewith not exceeding imprisonment for a period of six months together with a fine of fifty pounds.

Repeal of
Act 47 of 1926
and section 11
of Act 25 of
1932.

12. The Sugar Prices Act, 1926, and section *eleven* of the Financial Adjustments Act, 1932, are hereby repealed.

Interpretation
of terms.

13. In this Act, unless inconsistent with the context—

“the board” means the board established under any agreement or determination published under section *one* or *two*;

“grower” means a person who produces sugar cane for the purpose of the manufacture of sugar: Provided that for the purposes of paragraph (*b*) of subsection (1) of section *one*, “grower” shall not include—

(i) a person of non-European descent; or

(ii) a person who manufactures sugar; or

(iii) a person who is a director of a company which manufactures sugar; or

(iv) a partnership, syndicate or company in which a person who manufactures sugar or who is a director of a company which manufactures sugar holds an interest of more than one-third;

“mandated territory” means the mandated territory of South-West Africa;

“miller” means a person who manufactures sugar from sugar cane;

“Minister” means the Minister of Commerce and Industries;

“refiner” means a person who converts raw sugar into refined sugar at a refinery;

“refined sugar” means all such sugars of refined quality as have been refined by the bone-char-filter, the vegetable-carbon or the carbonatation process;

“year” means a period of twelve months ending upon the thirtieth day of April.

Short title.

14. This Act shall be called the Sugar Act, 1936.

11. (1) Die Goewerneur-generaal kan regulasies uitvaardig vir die betere uitvoering van die doeleindes en bepalinge van hierdie Wet en van 'n kragtens artikel *een* of *twee* gepubliseerde ooreenkoms of vasstelling of wysiging daarvan. Regulasies.

(2) Regulasies kragtens hierdie artikel uitgevaardig kan vir 'n oortreding daarvan of versuim om daaraan te voldoen strawwe voorskryf van hoogstens ses maande gevangenisstraf tesame met 'n boete van vyftig pond.

12. Die Wet op Suikerpryse, 1926, en artikel *elf* van die Finansiële Reëlingswet, 1932, word hiermee herroep.

Herroeping van
Wet 47 van
1926 en artikel
11 van Wet
25 van 1932.

13. In hierdie Wet, tensy uit die samehang anders blyk, beteken— Woordomskrywing.

„die raad” die raad ingevolge 'n kragtens artikel *een* of *twee* gepubliseerde ooreenkoms of vasstelling ingestel;

„planter” iemand wat suikerriet produseer vir die vervaardiging van suiker: Met dien verstande dat „planter” volgens die betekenis van paragraaf (b) van sub-artikel (1) van artikel *een* nie insluit nie—

(i) iemand van nie-blanke afkoms; of

(ii) iemand wat suiker vervaardig; of

(iii) iemand wat 'n direkteur is van 'n maatskappy wat suiker vervaardig; of

(iv) 'n vennootskap, sindikaat of maatskappy waarin iemand wat suiker vervaardig of wat 'n direkteur is van 'n maatskappy wat suiker vervaardig, 'n belang besit van meer as een-derde;

„mandaatgebied” die mandaatgebied Suidwes-Afrika;

„meulenaar” iemand wat suiker uit suikerriet vervaardig;

„Minister” die Minister van Handel en Nywerheid;

„raffineerder” iemand wat in 'n raffinadery ru-suiker omsit in geraffineerde suiker;

„geraffineerde suiker” al sulke suikersoorte van geraffineerde kwaliteit as wat geraffineer is deur middel van die been-kool-filtreer-, die houtskool-, of die karbonateer-proses;

„jaar” 'n tydperk van twaalf maande eindigende op die dertigste dag van April.

14. Hierdie Wet heet die Suikerwet, 1936.

Kort titel.

No. 29, 1936.]

ACT

To ratify agreements entered into between the Government of the Union and the Governments of Southern Rhodesia and Northern Rhodesia for the amendment of the trade and customs agreements in force between the Government of the Union and the Governments of Southern Rhodesia and Northern Rhodesia, respectively.

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

Ratification of amendment of Union-Southern Rhodesia trade agreement.

1. The agreement entered into between the Government of the Union and the Government of Southern Rhodesia, to amend the trade agreement a copy of which is set forth in the Schedule to the Union and Southern Rhodesia Trade Agreement Act, 1935 (Act No. 14 of 1935), in the following respects, that is to say—

(a) to substitute in paragraph (2) of Article V for the words "free on rail" the words "wet weight paid at auction", with effect from the first day of July, 1936; and

(b) to add at the end of the Schedule to the agreement, referred to in Article II thereof—

(i) with effect from the first day of April, 1935, the items—

"Precious metal concentrates. Meatmeal"; and

(ii) with effect from the first day of April, 1936, the item—

"Publicity literature (*i.e.*, advertising matter relating to fairs, exhibitions and travel)";

is hereby ratified and confirmed, and the said Act shall be construed accordingly.

Ratification of amendment of Union-Northern Rhodesia customs agreement.

2. The agreement entered into between the Government of the Union and the Government of Northern Rhodesia, to amend the customs agreement a copy of which is set forth in the Second Schedule to the Union and Rhodesia Customs Agreements Act, 1930 (Act No. 17 of 1930), in the following respects, that is to say—

(a) to substitute in Article IX for the word "twelve" the word "fifteen", and for the word "six" the word "ten", with effect from the first day of April, 1935;

(b) to add at the end of the first paragraph of that article the words "with the exception of electrolytic copper and zinc removed on and after the first day of October, 1935, and with the further exception of publicity literature (*i.e.* advertising matter relating to fairs, exhibitions and travel), removed on and after the first day of April, 1936"; and

(c) to add at the end of the second paragraph of that article the words "and also to the corresponding classes of goods manufactured in the Union and removed to Northern Rhodesia from Southern Rhodesia, provided that payment in respect of such goods shall be made only on those removed after the thirtieth day of June, 1935";

is hereby ratified and confirmed, and the said Act shall be construed accordingly.

Short title.

3. This Act shall be known as the Union and Rhodesia Agreements (Amendments) Act, 1936.

No. 29, 1936.]

WET

Tot ratifikasie van ooreenkomste aangeaan tussen die Regering van die Unie en die Regering van Suid-Rhodesië en Noord-Rhodesië om die handels- en doeane-ooreenkomste wat tussen die Regering van die Unie en die Regering van Suid-Rhodesië en Noord-Rhodesië, respektieflik, van krag is, te wysig.

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

1. Die ooreenkoms aangeaan tussen die Regering van die Unie en die Regering van Suid-Rhodesië om die handelsooreenkoms waarvan 'n afskrif in die Engelse teks van die Bylae tot die Wet op die Handelsooreenkoms tussen die Unie en Suid-Rhodesië, 1935 (Wet No. 14 van 1935), opgeneem is, in die volgende opsigte te wysig, d.w.s.:—

Ratifikasie van Unie se handelsooreenkoms met Suid-Rhodesië.

- (a) om in paragraaf (2) van Artikel V die woorde „free on rail” te vervang deur die woorde „wet weight paid at auction”, met ingang vanaf die eerste dag van Julie, 1936; en
- (b) om aan die end van die Bylae tot die ooreenkoms, vermeld in Artikel II daarvan, by te voeg—
 - (i) met ingang vanaf die eerste dag van April 1935 die items—
„Precious metal concentrates. Meatmeal”; en
 - (ii) met ingang vanaf die eerste dag van April 1936 die item—
„Publicity literature (*i.e.* advertising matter relating to fairs, exhibitions and travel)”;

word hiermee geratifiseer en bekragtig, en vermelde Wet word dienooreenkomstig uitgelê.

2. Die ooreenkoms aangeaan tussen die Regering van die Unie en die Regering van Noord-Rhodesië om die doeane-ooreenkoms waarvan 'n afskrif in die Engelse teks van die Tweede Bylae tot die Wet op Doeane-Ooreenkomste tussen die Unie en Rhodesië, 1930 (Wet No. 17 van 1930), opgeneem is, in die volgende opsigte te wysig, d.w.s.:—

Ratifikasie van wysiging van Unie se doeane-ooreenkoms met Noord-Rhodesië.

- (a) om in Artikel IX die woord „twelve” te vervang deur die woord „fifteen”, en die woord „six” te vervang deur die woord „ten”, met ingang vanaf die eerste dag van April 1935;
- (b) om aan die end van die eerste paragraaf van daardie artikel toe te voeg die woorde „with the exception of electrolytic copper and zinc removed on and after the first day of October, 1935, and with the further exception of publicity literature (*i.e.* advertising matter relating to fairs, exhibitions and travel) removed on and after the first day of April, 1936”; en
- (c) om aan die end van die tweede paragraaf van daardie artikel toe te voeg die woorde „and also to the corresponding classes of goods manufactured in the Union and removed to Northern Rhodesia from Southern Rhodesia, provided that payment in respect of such goods shall be made only on those removed after the thirtieth day of June, 1935”;

word hiermee geratifiseer en bekragtig, en vermelde Wet word dienooreenkomstig uitgelê.

3. Hierdie Wet heet die Wet op Wysiging van Unie en Kort titel. Rhodesië Ooreenkomste, 1936.

No. 30, 1936.]

ACT

To amend the laws relating to occupation and acquisition of land in the Province of the Transvaal by Asiatics and coloured persons, and to provide for matters incidental thereto.

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

Amendment of section 2 of Law 3 of 1885.

1. Article *two* of Law No. 3 of 1885 of Transvaal is hereby amended—

- (i) by the insertion in paragraph (b) after the word "aanwijzen" of the words "volgens het voorschrift van paragraaf (d)";
- (ii) by the insertion in paragraph (d) after the words "aan te wijzen" of the words "mits beide Huizen van het Parlement vooraf bij besluit hun toestemming tot de aanwijzing verleend hebben".

Amendment of section 10 of Ordinance 17 of 1905.

2. The following new sub-section is hereby inserted in section *ten* of the Municipal Amending Ordinance, 1905, of Transvaal after sub-section (1) of that section:

"(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".

Amendment of section 130 of Act 35 of 1908 (Transvaal), as amended by section 1 of Act 35 of 1932.

3. (1) Sub-section (1) of section *one hundred and thirty* of the Precious and Base Metals Act, 1908, of the Transvaal (hereinafter referred to as the Gold Law), is hereby deleted and the following sub-section substituted therefor:

"(1) Save as is provided in section *twenty-four* or *one hundred and thirty-one A* or in any other law expressly permitting a coloured person to reside on or otherwise occupy any land or ground mentioned in this sub-section, a coloured person may not acquire any right under this Act, or reside on or otherwise occupy any land or ground in respect whereof any other person holds any right acquired under this Act or Law No. 15 of 1898 or a similar prior law, and a person who holds any such right, or a person who has acquired from such holder any right to any such ground or land, may not transfer any such right or part thereof or let any ground or land in respect whereof he holds any such right, to a coloured person or permit any such transfer or letting and may not permit any coloured person to reside upon or otherwise occupy any such ground or land: Provided that a coloured person who is in the employ of a white person or of a company controlled and managed by a white person or white persons may, with the permission of the white person or company employing him and for the purpose of his employment, and subject to compliance with the requirements of any other law, reside upon or otherwise occupy any such ground or land as aforesaid which his said employer is entitled to reside upon or otherwise occupy."

(2) The reference, in section *four* of the Transvaal Asiatic Land Tenure Act, 1932 (Act No. 35 of 1932) to section *one* of that Act, shall be deemed to be a reference to sub-section (1) of this section.

Amendment of section 131 of Act 35 of 1908 (Transvaal), as amended by section 2 of Act 35 of 1932.

4. Section *one hundred and thirty-one* of the Gold Law is hereby amended—

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

"Provided that any coloured person who is in the employ of a white person or of a company controlled and managed by a white person or white persons may, with the permission of the white person or company employing him and for the purpose of his employment, and subject to compliance with the requirements of any other law, reside upon or otherwise occupy any such ground or land as aforesaid which his said employer is entitled to reside upon or otherwise occupy";

No. 30, 1936.]

WET

Tot wysiging van die wette betreffende die okkupasie en verkryging van grond in die Provinsie Transvaal deur Asiëte en kleurlinge en om voorsiening te maak vir sake in verband daarmee.

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

1. Artikel twee van Wet No. 3 van 1885 van Transvaal word hiermee gewysig—

(i) deur in paragraaf (b) na die woord „aanwysen” die woorde „volgens het voorschrift van paragraaf (d)” in te voeg;

(ii) deur in paragraaf (d) na die woorde „aan te wysen” die woorde „mits beide Huizen van het Parlement vooraf bij besluit hun toestemming tot de aanwijzing verleend hebben” in te voeg.

2. Die volgende nuwe sub-artikel word hiermee in artikel tien van die „Municipal Amending Ordinance, 1905,” van Transvaal na sub-artikel (1) van daardie artikel ingevoeg:

„(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.”

3. (1) Sub-artikel (1) van artikel honderd-en-dertig van die „Precious and Base Metals Act, 1908”, van Transvaal (hieronder die Goudwet genoem) word hiermee geskrap en deur die volgende sub-artikel vervang:

„(1) Save as is provided in section twenty-four or one hundred and thirty-one A or in any other law expressly permitting a coloured person to reside on or otherwise occupy any land or ground mentioned in this sub-section, a coloured person may not acquire any right under this Act, or reside on or otherwise occupy any land or ground in respect whereof any other person holds any right acquired under this Act or Law No. 15 of 1898 or a similar prior law, and a person who holds any such right, or a person who has acquired from such holder any right to any such ground or land, may not transfer any such right or part thereof or let any ground or land in respect whereof he holds any such right, to a coloured person or permit any such transfer or letting and may not permit any coloured person to reside upon or otherwise occupy any such ground or land: Provided that a coloured person who is in the employ of a white person or of a company controlled and managed by a white person or white persons may, with the permission of the white person or company employing him and for the purpose of his employment, and subject to compliance with the requirements of any other law, reside upon or otherwise occupy any such ground or land as aforesaid which his said employer is entitled to reside upon or otherwise occupy.”

(2) Die vermelding van artikel een van die Wet op Grondbesit van Asiëte in Transvaal, 1932 (Wet No. 35 van 1932), in artikel vier van daardie Wet, word beskou as ’n vermelding van sub-artikel (1) van hierdie artikel.

4. Artikel honderd-een-en-dertig van die Goudwet word hiermee gewysig—

(a) deur die volgende voorbehoudsbepalings aan sub-artikel (1) toe te voeg:

„Provided that any coloured person who is in the employ of a white person or of a company controlled and managed by a white person or white persons may, with the permission of the white person or company employing him and for the purpose of his employment, and subject to compliance with the requirements of any other law, reside upon or otherwise occupy any such ground or land as aforesaid which his said employer is entitled to reside upon or otherwise occupy”;

Wysiging van artikel 2 van Wet 3 van 1885.

Wysiging van artikel 10 van Ordonnansie 17 van 1905.

Wysiging van artikel 130 van Wet 35 van 1908 (Transvaal) soos gewysig deur artikel 1 van Wet 35 van 1932.

Wysiging van artikel 131 van Wet 35 van 1908 (Transvaal), soos gewysig deur artikel 2 van Wet 35 van 1932.

(b) by the deletion in sub-section (3) of the words: "to coloured persons in the employ of a white person in so far as they live on the premises where they are so employed nor":

Replacement of section 131A of Act 35 of 1908 (Transvaal) as amended by section 3 of Act 35 of 1932.

5. Section *one hundred and thirty-one A* of the Gold Law is hereby repealed and the following section substituted therefor:—
 "Exemption of certain land from prohibition attaching thereto.

131. A (1) Subject to the provisions of sub-sections (3) and (4) the Minister of the Interior may, by notice in the *Gazette*, exempt any land defined in that notice, to which the provisions of sections *one hundred and thirty* and *one hundred and thirty-one* apply, from the operation of those provisions in so far as they prohibit a coloured person from residing upon or otherwise occupying any such land or in so far as they prohibit any person from letting any such land to a coloured person or from permitting such letting or from permitting a coloured person to reside upon or otherwise occupy any such land, and thereupon those provisions shall not prohibit a coloured person from residing upon or otherwise occupying such land and shall not prohibit any person from letting any such land to a coloured person or from permitting such letting or from permitting a coloured person to reside upon or otherwise occupy any such land.

(2) Subject to the provisions of sub-sections (3) and (4) the said Minister may, by notice in the *Gazette*, cancel any discrimination against coloured persons which is contained in the title deeds of any land which was formerly held under any right conferred by this Act or by any prior law relating to the winning of gold, and the tenure whereof was, in terms of the provisions of section *sixty* of the Townships Amendment Act, 1908, of the Transvaal (Act No. 34 of 1908), converted from a "voorkeurrecht" or leasehold into freehold.

(3) In a notice mentioned in sub-section (1) or (2) the said Minister shall state whether the exemption or cancellation contained in that notice is—

- (a) absolute and permanent; or
- (b) qualified and terminable.

(4) The said Minister shall not so exempt any such land or cancel any such provision in the title deeds to land—

- (a) unless he has consulted the Minister of Mines and if the land in question is situate within the area of jurisdiction of a municipal council or village council or health committee, then also that council or committee in regard to the proposed exemption or cancellation; and
- (b) if the exemption or cancellation is to be absolute and permanent, unless the proposed exemption or cancellation has been approved of by a resolution passed by both Houses of Parliament; or
- (c) if the exemption or cancellation is to be qualified and terminable, unless—

- (i) a coloured person resided upon or otherwise occupied the land in question on his own behalf ever since the first day of June, 1932; and

- (ii) the Commission which was appointed by the Governor-General on the first day of October, 1932, and was mentioned in Government Notice No. 1324 of 1932, in effect recommended (whether before or after the date upon which this section came into operation) the exemption of the said land from any such prohibition as is mentioned in sub-section (1) which is contained in any law, or in effect recommended the cancellation of any such discrimination as aforesaid, which is contained in the title deeds of the said land.

(5) When any land has been exempted in terms of sub-section (1) from the provisions of sections *one hundred and thirty* and *one hundred and thirty-one*, any discrimination against coloured persons which is contained in the title deeds of any such land shall be cancelled, but subject to the provisions of sub-section (6).

- (b) deur uit sub-artikel (3) die woorde „to coloured persons in the employ of a white person in so far as they live on the premises where they are so employed nor” te skrap.

5. Artikel *honderd-een-en-dertig A* van die Goudwet word hiermee herroep en deur die volgende artikel vervang:—

“Exemption of certain land from prohibition attaching thereto.

131. A (1) Subject to the provisions of sub-sections (3) and (4) the Minister of the Interior may, by notice in the *Gazette*, exempt any land defined in that notice, to which the provisions of sections *one hundred and thirty* and *one hundred and thirty-one* apply, from the operation of those provisions in so far as they prohibit a coloured person from residing upon or otherwise occupying any such land or in so far as they prohibit any person from letting any such land to a coloured person or from permitting such letting or from permitting a coloured person to reside upon or otherwise occupy any such land, and thereupon those provisions shall not prohibit a coloured person from residing upon or otherwise occupying such land and shall not prohibit any person from letting any such land to a coloured person or from permitting such letting or from permitting a coloured person to reside upon or otherwise occupy any such land.

(2) Subject to the provisions of sub-sections (3) and (4) the said Minister may, by notice in the *Gazette*, cancel any discrimination against coloured persons which is contained in the title deeds of any land which was formerly held under any right conferred by this Act or by any prior law relating to the winning of gold, and the tenure whereof was, in terms of the provisions of section *sixty* of the Townships Amendment Act, 1908, of the Transvaal (Act No. 34 of 1908), converted from a “voorkeurrecht” or leasehold into freehold.

(3) In a notice mentioned in sub-section (1) or (2) the said Minister shall state whether the exemption or cancellation contained in that notice is—

- (a) absolute and permanent; or
(b) qualified and terminable.

(4) The said Minister shall not so exempt any such land or cancel any such provision in the title deeds to land—

- (a) unless he has consulted the Minister of Mines and if the land in question is situate within the area of jurisdiction of a municipal council or village council or health committee, then also that council or committee in regard to the proposed exemption or cancellation; and
(b) if the exemption or cancellation is to be absolute and permanent, unless the proposed exemption or cancellation has been approved of by a resolution passed by both Houses of Parliament; or
(c) if the exemption or cancellation is to be qualified and terminable, unless—
(i) a coloured person resided upon or otherwise occupied the land in question on his own behalf ever since the first day of June, 1932; and
(ii) the Commission which was appointed by the Governor-General on the first day of October, 1932, and was mentioned in Government Notice No. 1324 of 1932, in effect recommended (whether before or after the date upon which this section came into operation) the exemption of the said land from any such prohibition as is mentioned in sub-section (1) which is contained in any law, or in effect recommended the cancellation of any such discrimination as aforesaid, which is contained in the title deeds of the said land.

(5) When any land has been exempted in terms of sub-section (1) from the provisions of sections *one hundred and thirty* and *one hundred and thirty-one*, any discrimination against coloured persons which is contained in the title deeds of any such land shall be cancelled, but subject to the provisions of sub-section (6).

Vervanging van artikel 131A van Wet 35 van 1908 (Transvaal) soos gewysig deur Artikel 3 van Wet 35 van 1932.

(6) If any land which has been exempted in terms of paragraph (b) of sub-section (3) or in whose title deeds a discrimination against coloured persons was cancelled in terms of that paragraph, is no longer occupied by a coloured person or by the servant of an Asiatic company as defined in section *eleven* of the Asiatic (Land and Trading Amendment (Transvaal) Act, 1919 (Act No. 37 of 1919) (as amended by section *seven* of the Transvaal Asiatic Land Tenure Act, 1932) (Act No. 35 of 1932) on behalf of that company, the Minister of the Interior may, by notice in the *Gazette*, annul the said exemption or cancellation.

(7) Upon the written request of a coloured person who lawfully resides upon or otherwise lawfully occupies on his own behalf a piece of land which is situate within the area of jurisdiction of a municipal council or village council or health committee and which has been exempted in terms of paragraph (b) of sub-section (3) or in whose title deed a discrimination against coloured persons was cancelled in terms of the said paragraph (b), or upon the written request of an Asiatic company as aforesaid, which or whose servant on its behalf lawfully occupies such a piece of land as aforesaid, the Minister of the Interior may, after consultation with the municipal council, village council or health committee within whose area of jurisdiction the piece of land in question is situate, by notice in the *Gazette*, in terms of sub-section (1) or (2) and paragraph (b) of sub-section (3) exempt any other piece of land defined in the said notice which is situate in the said area or cancel a discrimination against coloured persons in the title deed of any such other piece of land if the first-mentioned piece of land was at any time lawfully occupied by a coloured person by virtue of the proviso to section *four* of the Transvaal Asiatic Land Tenure Act, 1932 (Act No. 35 of 1932), or by virtue of the proviso to sub-section (1) of section *five* of that Act. When the said Minister has in terms of this sub-section exempted any piece of land or cancelled any discrimination against coloured persons in its title deed that piece of land shall, while in the lawful occupation of a coloured person, for the purposes of this sub-section be deemed to be occupied by him by virtue of the proviso to the said section *four* or by virtue of the proviso to the said sub-section (1) of section *five*, as the case may be. When the said Minister has effected any exemption or cancellation in terms of this sub-section he shall annul the corresponding exemption or cancellation relating to the piece of land previously occupied by the coloured person or company at whose request the exemption or cancellation under this sub-section was effected.

(8) When an exemption or cancellation has been annulled in terms of sub-section (6) or (7) the provisions from which exemption was granted shall again apply to the land in question and if the land has since the exemption or cancellation not been transferred to another owner, the cancelled discrimination against coloured persons in its title deed shall be revived.

(9) When the Minister of the Interior has published a notice in terms of sub-section (1), (2), (6) or (7), the officer in charge of the deeds registry in which is registered the title to the land to which such notice relates, shall note upon the title deed of such land which is filed in his registry and in the appropriate registers a reference to the said notice.

(10) The provisions of paragraph (b) of article *two* of Law No. 3 of 1885 of Transvaal and of sections *two* and *three* of the aforesaid Act No. 37 of 1919 shall not apply in connection with any land to which an exemption or cancellation mentioned in paragraph (a) of sub-section (3) has been published in terms of sub-section (1) or (2) and of sub-section (11).

(11) If a notice has been published in terms of sub-section (1) or (2) and paragraph (b) of sub-section (3) in respect of the site of any trading premises, and it appears from the register mentioned

(6) If any land which has been exempted in terms of paragraph (b) of sub-section (3) or in whose title deeds a discrimination against coloured persons was cancelled in terms of that paragraph, is no longer occupied by a coloured person or by the servant of an Asiatic company as defined in section *eleven* of the Asiatic (Land and Trading) Amendment (Transvaal) Act, 1919 (Act No. 37 of 1919) (as amended by section *seven* of the Transvaal Asiatic Land Tenure Act, 1932) (Act No. 35 of 1932) on behalf of that company, the Minister of the Interior may, by notice in the *Gazette*, annul the said exemption or cancellation.

(7) Upon the written request of a coloured person who lawfully resides upon or otherwise lawfully occupies on his own behalf a piece of land which is situate within the area of jurisdiction of a municipal council or village council or health committee and which has been exempted in terms of paragraph (b) of sub-section (3) or in whose title deed a discrimination against coloured persons was cancelled in terms of the said paragraph (b), or upon the written request of an Asiatic company as aforesaid, which or whose servant on its behalf lawfully occupies such a piece of land as aforesaid, the Minister of the Interior may, after consultation with the municipal council, village council or health committee within whose area of jurisdiction the piece of land in question is situate, by notice in the *Gazette*, in terms of sub-section (1) or (2) and paragraph (b) of sub-section (3) exempt any other piece of land defined in the said notice, which is situate in the said area, or cancel a discrimination against coloured persons in the title deed of any such other piece of land if the first mentioned piece of land was at any time lawfully occupied by a coloured person by virtue of the proviso to section *four* of the Transvaal Asiatic Land Tenure Act, 1932 (Act No. 35 of 1932), or by virtue of the proviso to sub-section (1) of section *five* of that Act. When the said Minister has in terms of this sub-section exempted any piece of land or cancelled any discrimination against coloured persons in its title deed, that piece of land shall, while in the lawful occupation of a coloured person, for the purposes of this sub-section be deemed to be occupied by him by virtue of the proviso to the said section *four* or by virtue of the proviso to the said sub-section (1) of section *five* as the case may be. When the said Minister has effected any exemption or cancellation in terms of this sub-section he shall annul the corresponding exemption or cancellation relating to the piece of land previously occupied by the coloured person or company at whose request the exemption or cancellation under this sub-section was effected.

(8) When an exemption or cancellation has been annulled in terms of sub-section (6) or (7) the provisions from which exemption was granted shall again apply to the land in question and if the land has since the exemption or cancellation not been transferred to another owner, the cancelled discrimination against coloured persons in its title deed shall be revived.

(9) When the Minister of the Interior has published a notice in terms of sub-section (1), (2), (6) or (7), the officer in charge of the deeds registry in which is registered the title to the land to which such notice relates, shall note upon the title deed of such land which is filed in his registry and in the appropriate registers a reference to the said notice.

(10) The provisions of paragraph (b) of article *two* of Law No. 3 of 1885 of Transvaal and of sections *two* and *three* of the aforesaid Act No. 37 of 1919 shall not apply in connection with any land to which an exemption or cancellation mentioned in paragraph (a) of sub-section (3) has been published in terms of sub-section (1) or (2) and of sub-section (11).

(11) If a notice has been published in terms of sub-section (1) or (2) and paragraph (b) of sub-section (3) in respect of the site of any trading premises, and it appears from the register mentioned

in section *thirteen* of the Transvaal Asiatic Land Tenure Amendment Act, 1936, that the coloured person shown by such register as having been in occupation of such trading premises was, at the date of the relevant entry in such register, sharing with occupants of adjoining premises the use of any common yard, or using or sharing the use of any auxiliary premises erected in such yard, or ordinarily entered from such yard, or forming part of the building which constitutes such trading premises, it shall be lawful for the owner of such common yard or auxiliary premises to allow any coloured person in occupation of the trading premises to which the said notice applies and any coloured person employed by him on such premises, to use such common yard or auxiliary premises for such purposes as may be defined by regulation, and for any such coloured person to use that yard or those auxiliary premises for such purposes, notwithstanding the fact that no notice has been issued under sub-section (1) in respect of the land forming the site of such common yard or auxiliary premises.

(12) In sub-section (11)—

“auxiliary premises” includes any bathroom, lavatory, washing place, storage place, pump, tap, closet, urinal, stable or garage and any room used for the accommodation of native servants, and any passage, staircase or balcony leading to any such place or room;

“common yard” includes any yard which, although it is not used in common by occupants of different premises adjoining that yard, is intended and in the opinion of the Minister of the Interior suitable for such common use;

“trading premises” includes any premises used for the purpose of a trade or business carried on under the authority of a licence or certificate issued by a competent authority in terms of any law.”

Amendment of section 14 of Act 36 of 1908.

6. Sub-section (1) of section *fourteen* of the Asiatic Registration Amendment Act, 1908 of Transvaal is hereby amended by the addition at the end thereof, of the words “or a certificate under the hand of the Minister of the Interior to the effect that the holder of the certificate is entitled to reside and to carry on the business defined in the certificate, in the Province of Transvaal”.

Amendment of section 1 of Act 37 of 1919, as amended by section 6 of Act 35 of 1932 and section 1 of Act 35 of 1935.

7. Sub-sections (2) and (3) of section *one* of the Asiatic (Land and Trading) Amendment (Transvaal) Act, 1919 are hereby deleted and the following sub-sections substituted therefor.

(2) The provisions of sub-section (1) shall not exempt any coloured person who carries on any business under the authority of a trading licence from any provision of the said section *one hundred and thirty* or *one hundred and thirty-one* in respect of any number of pieces of land in any township in excess of the number of pieces of land on which he or his predecessor in title in respect of his business, lawfully resided or which he or such predecessor lawfully occupied in such township on the first day of May, 1930, or in respect of any area in such township in excess of the area on which he or such predecessor lawfully resided or which he or such predecessor lawfully occupied in such township on the said date, unless the residence upon or occupation of such excess land by the coloured person concerned has on the written application of such coloured person been sanctioned by certificate of the Minister of the Interior, who may, in his discretion, issue a certificate sanctioning such residence or occupation, subject to such conditions as he may think fit to impose: Provided that if any such excess in the area occupied by any coloured person who is exempted by sub-section (1) arises only by reason of such coloured person sharing the use of a common yard or other premises available for joint use by the occupants of buildings adjoining such yard or other premises, greater in extent than any such yard or other premises included in the area occupied by such coloured person on the first day of May, 1930, such coloured person shall be exempted in respect of his occupation of such excess.

(3) If the lawful successor in title of any coloured person in respect of any business is a company the provisions of sub-section (1) shall not exempt any person

in section *thirteen* of the Transvaal Asiatic Land Tenure Amendment Act, 1936, that the coloured person shown by such register as having been in occupation of such trading premises was, at the date of the relevant entry in such register, sharing with occupants of adjoining premises the use of any common yard, or using or sharing the use of any auxiliary premises erected in such yard, or ordinarily entered from such yard, or forming part of the building which constitutes such trading premises, it shall be lawful for the owner of such common yard or auxiliary premises to allow any coloured person in occupation of the trading premises to which the said notice applies and any coloured person employed by him on such premises, to use such common yard or auxiliary premises for such purposes as may be defined by regulation, and for any such coloured person to use that yard or those auxiliary premises for such purposes, notwithstanding the fact that no notice has been issued under sub-section. (1) in respect of the land forming the site of such common yard or auxiliary premises.

(12) In sub-section (11)—

“auxiliary premises” includes any bathroom, lavatory, washing place, storage place, pump, tap, closet, urinal, stable or garage and any room used for the accommodation of native servants, and any passage, staircase or balcony leading to any such place or room;

“common yard” includes any yard which, although it is not used in common by occupants of different premises adjoining that yard, is intended and in the opinion of the Minister of the Interior suitable for such common use;

“trading premises” includes any premises used for the purpose of a trade or business carried on under the authority of a licence or certificate issued by a competent authority in terms of any law.”

6. Sub-artikel (1) van artikel *veertien* van die „Asiatics Registration Amendment Act, 1908” van Transvaal word hiermee gewysig deur die byvoeging by die end daarvan van die woorde „or a certificate under the hand of the Minister of the Interior to the effect that the holder of the certificate is entitled to reside and to carry on the business defined in the certificate, in the Province of Transvaal”.

Wysiging van artikel 14 van Wet 36 van 1908.

7. Sub-artikels (2) en (3) van artikel *een* van die „Aziaten (Grond en Bezigheid) Wijzigings Wet (Transvaal), 1919”, word hiermee geskrap en deur die volgende sub-artikels vervang:—

Wysiging van artikel 1 van Wet 37 van 1919, soos gewysig deur artikel 6 van Wet 35 van 1932 en artikel 1 van Wet 35 van 1935.

(2) De bepalingen van sub-artikel (1) onthef en gee geen kleurling, die krachtens een handelslicentie een bezigheid drijft, van een bepaling van bedoeld artikel *honderd en dertig* of *honderd een en dertig* ten aanzien van een groter aantal stukken grond in een dorp dan het aantal stukken grond die hij of zijn rechtsvoorganger met betrekking tot zijn bezigheid op de eerste dag van Mei 1930 in dat dorp wettig bewoonde of okkupeerde of ten aanzien van een grotere oppervlakte in dat dorp dan de oppervlakte die hij of bedoelde rechtsvoorganger op voormelde dag in dat dorp wettig bewoonde of okkupeerde, tenzij de bewoning of okkupatie van die meerdere grond door de betrokken kleurling, op zijn schriftelijk aanzoek veroorloofd is geworden door een certificaat van de Minister van Binnenlandse Zaken, die volgens goedvinden een certificaat kan uitreiken waardoor bedoelde bewoning of okkupatie veroorloofd wordt, op voorwaarden die hij wenselijk acht te stellen: Met dien verstande dat indien een door sub-artikel (1) vrijgestelde kleurling zodanige meerdere grond okkupeert, alleen daardoor dat hij deelt in het gebruik van een gemeenschappelijke achterplaats of ander perceel beschikbaar voor gemeenschappelijk gebruik door de okkupanten van gebouwen die aan bedoelde achterplaats of het ander perceel grenzen, van grotere omvang dan zulk een achterplaats of perceel begrepen in de oppervlakte die bedoelde kleurling op de eerste dag van Mei 1930 okkupeerde, dan wordt bedoelde kleurling vrijgesteld ten aanzien van zijn okkupatie van de meerdere grond.

(3) Indien de wettige rechtsopvolger van een kleurling ten aanzien van een of andere bezigheid een maatschappij is, onthef en de bepalingen van sub-artikel (1) niet iemand

in the employment of such company in respect of any number of pieces of land in any township in excess of the number of pieces of land which the coloured person, of whom the company is the successor in title, lawfully occupied in such township for the purposes of such business on the first day of May, 1930, or in respect of any area in such township in excess of the area in such township which such coloured person lawfully occupied for the purposes of such business on the said date, or, if the company succeeded such coloured person in respect of such business before the first day of May, 1930, the provisions of sub-section (1) shall not exempt any person in its employment, in respect of any number of pieces of land in any township in excess of the number of pieces of land which the persons *bona fide* in the employment of such company lawfully occupied in such township for the purposes of such business on the said date, or in respect of any area in such township in excess of the area in such township which the persons *bona fide* in the employment of such company lawfully occupied for the purposes of such business on the said date.

(4) If it appears to the Minister of the Interior that any coloured person, or any two or more coloured persons carrying on business in partnership with one another, would fall under the exemption provided for in sub-section (1) but for the fact that there has been a break in the continuity of the business carried on, under the authority of a trading licence, by such coloured person or partnership, or by any predecessor in title of such coloured person or partnership in respect of his or its business, and if it appears to the said Minister that the circumstances of the case justify the condonation of such break in continuity, he may in his discretion (after consultation with the municipal council or village council or health committee, if any, within whose area of jurisdiction the business in question is or was carried on), on the application in writing of the person or partnership concerned, by a statement in writing condone any such break in continuity as may have occurred prior to the date of such statement, and thereupon such break shall be deemed not to have occurred.

(5) If any coloured person was, on the first day of May, 1930, residing upon or occupying any land and such residence or occupation was by virtue of any provision of section *one hundred and thirty* or *one hundred and thirty-one* of the Gold Law or of this section unlawful, such coloured person may, subject to compliance with the requirements of any other law, nevertheless continue such residence or occupation till the thirtieth day of April, 1937: Provided that he has, before the first day of April, 1935, furnished the Minister of the Interior or the Commission mentioned in Government Notice No. 1324 of 1932 with a written notice, specifying the land which he unlawfully resided upon or occupied, the nature of such residence or occupation and the period during which he resided on or occupied such land and such other particulars in regard to such land, residence or occupation as the Minister or the Commission may have required him to furnish."

Amendment of section 4 of Act 37 of 1919 as inserted by section 7 of Act 35 of 1932.

8. Section *four* of the Asiatic (Land and Trading) Amendment (Transvaal) Act, 1919, is hereby amended by the deletion, in paragraph (a), of the words "and not transferred by him" and the substitution therefor of the words "or by an Asiatic company or by any person on behalf or in the interest of an Asiatic or an Asiatic Company, and not transferred by the holder".

Amendment of section 9 of Act 37 of 1919, as inserted by section 7 of Act 35 of 1932.

9. Sub-section (1) of section *nine* of the Asiatic (Land and Trading) Amendment (Transvaal) Act, 1919, is hereby amended by the deletion of the proviso.

Amendment of section 8 of Act 35 of 1932.

10. Section *eight* of the Transvaal Asiatic Land Tenure Act, 1932, is hereby amended—

- (i) by the insertion in sub-section (1) of the word "or" at the end of paragraph (b);
- (ii) by the insertion of the following new paragraphs after paragraph (b):—
 - "(c) practising in the Union any recognized learned profession or

die in dienst van bedoelde maatschappij is, ten aanzien van een groter aantal stukken grond in een of ander dorp dan het aantal stukken grond dat de kleurling, wiens rechtsopvolger de maatschappij is, op de eerste dag van Mei 1930 voor de doeleinden van bedoelde bezigheid in dat dorp wettig okkupeerde, of ten aanzien van een grotere oppervlakte in dat dorp dan de oppervlakte die bedoelde kleurling op voormelde dag voor de doeleinden van bedoelde bezigheid in dat dorp wettig okkupeerde, of indien de maatschappij vóór de eerste dag van Mei 1930 bedoelde kleurling ten aanzien van bedoelde bezigheid opvolgde, ontheffen de bepalingen van sub-artikel (1) niet iemand in dienst van de maatschappij ten aanzien van een groter aantal stukken grond in een of ander dorp dan het aantal stukken grond dat de personen, welke te goeder trouw in dienst van bedoelde maatschappij waren, op voormelde dag voor de doeleinden van bedoelde bezigheid in dat dorp wettig okkupeerden, of ten aanzien van een grotere oppervlakte in dat dorp dan de oppervlakte die de personen welke te goeder trouw in dienst van bedoelde maatschappij waren, op voormelde dag voor de doeleinden van bedoelde bezigheid in dat dorp wettig okkupeerden.

(4) Indien aan de Minister van Binnenlandse Zaken blijkt dat een kleurling of twee of meer kleurlingen die met elkaar in vennootschap zijn, onder de vrijstelling bepaald in sub-artikel (1) zouden vallen, ware het niet dat de duur van de bezigheid, door bedoelde kleurling of vennootschap of door een rechtsvoorganger van bedoelde kleurling of vennootschap met betrekking tot zijn bezigheid, krachtens een handelslicentie, gedreven, onderbroken is geworden, en indien aan bedoelde Minister blijkt dat de omstandigheden van het geval de veronachtzaming van de onderbreking in duur rechtvaardigen, dan kan hij, volgens goeddunken (na beraadslaging met de municipale raad of dorpsraad of het gezondheidskomitee, als daar is, binnen wiens rechtsgebied de betrokken bezigheid gedreven wordt of werd) op schriftelijk aanzoek van de betrokken persoon of vennootschap bij schriftelijke verklaring kwijtschelding verlenen van de gevolgen van zulk een onderbreking in duur die vóór de dagtekening van de verklaring mocht hebben plaatsgevonden en daarop wordt die onderbreking geacht niet plaatsgevonden te hebben.

(5) Indien een kleurling op de eerste dag van Mei 1930 grond bewoonde of okkupeerde en die bewoning of okkupatie ingevolge een bepaling van artikel *honderd en dertig* of *honderd een en dertig* van de Goudwet of ingevolge dit artikel onwettig was, dan kan die kleurling, mits hij aan de vereisten van andere rechtsbepalingen voldoet desniettemin daar blijven wonen of die grond blijven okkuperen tot op de dertigste dag van April 1937, mits hij vóór de eerste dag van April 1935 aan de Minister van Binnenlandse Zaken of de Kommissie vermeld in Goevernementskennisgeving No. 1324 van 1932, schriftelijke kennis gegeven heeft, met vermelding van de grond die hij onwettig bewoonde of okkupeerde, de aard van die bewoning of okkupatie en hoe lang hij die grond bewoond of geokkupeerd heeft en zulke andere bijzonderheden omtrent de grond, bewoning of okkupatie als de Minister of de Kommissie van hem verlangd mocht hebben."

8. Artikel *vier* van die „Aziaten (Grond en Bezigheid) Wijzigings (Transvaal) Wet, 1919" word hiermee gewysig deur in paragraaf (a) die woorde „waren en hij ze sedert dien dag niet overgedragen heeft" te skrap en te vervang deur die woorde „of van een Aziatiese maatschappij of van een of ander persoon ten behoeve of in belang van een Aziaat of een Aziatiese maatschappij waren, en de houder ze sedert dien dag niet overgedragen heeft".

Wysiging van artikel 4 van Wet 37 van 1919 soos ingevoeg deur artikel 7 van Wet 35 van 1932.

9. Sub-artikel (1) van artikel *nege* van die „Aziaten (Grond en Bezigheid) Wijzigings Wet (Transvaal), 1919", word hiermee gewysig deur die skraping van die voorbehoud.

Wysiging van artikel 9 van Wet 37 van 1919, soos ingevoeg deur artikel 7 van Wet 35 van 1932.

10. Artikel *agt* van die Wet op Grondbesit van Asiate in Transvaal, 1932, word hiermee gewysig—

Wysiging van artikel 8 van Wet 35 van 1932.

- (i) deur in sub-artikel (1) die woord „of" aan die end van paragraaf (b) by te voeg ;
- (ii) deur die volgende nuwe paragrawe na paragraaf (b) in te voeg :—
 - „(c) wat in die Unie 'n erkende geleerde beroep beoefen ;
 - of

- (d) visiting the Union from abroad and whose standing is such that it is, in the opinion of the Minister, desirable to exempt him from any law prohibiting his residence upon or occupation of any land”;
- (iii) by the insertion after the word “prohibiting” in sub-section (1), of the words “the letting of any land to or”;
- (iv) by the deletion of sub-section (3) and the substitution therefor of the following sub-sections and by designating the existing sub-section (4) sub-section (9):

“(3) Any person referred to in paragraph (a) or (b) of sub-section (1) may, with the consent in writing of the Minister of the Interior, acquire the ownership of any land or an interest in any land which he requires in connection with his work or for his residence: Provided that the said Minister may cancel such consent if he is satisfied that the land in question is being used otherwise than in connection with the work or for the residence of the person to whom the consent was granted.

(4) When land or an interest in land which was acquired by an Asiatic or coloured person by virtue of the consent of the Minister of the Interior in terms of sub-section (3) devolves by testamentary disposition or intestate succession upon an Asiatic or coloured person (whether directly or through an intermediate heir or legatee) the Asiatic or coloured person upon whom it so devolves may own the said land or hold the said interest during a period of five years as from the death of the first-mentioned Asiatic or coloured person but he shall not, merely by virtue of his ownership of or interest in the land in question, be entitled to occupy it.

(5) If an Asiatic or coloured person who inherited any land or interest in land as aforesaid, has, at the expiration of the said period of five years, not transferred it to a person who was entitled to acquire it, the land or interest in question shall vest in the State: Provided that if the said Asiatic or coloured person is at the expiration of the said period of five years the holder of a certificate mentioned in sub-section (1), he shall be deemed to have acquired that land or interest by virtue of the consent of the Minister of the Interior in terms of sub-section (3).

(6) If the Minister of the Interior is satisfied that any land, the residence whereon or the occupation or acquisition whereof by Asiatics or coloured persons is prohibited by any law, is being used or is desired for use by Asiatics or coloured persons solely for religious or educational purposes or for purposes of recreation or for purposes incidental to such purposes, he may (after consultation with the Minister of Mines, if residence upon or occupation of such land by Asiatics or coloured persons is prohibited by the Gold Law) by a certificate under his hand authorize any Asiatic or coloured person or any association of Asiatics or coloured persons or any Asiatic company (as defined in the aforesaid Act, No. 37 of 1919) to acquire or hire such land or an interest therein for such purposes and on such conditions as the Minister of the Interior may specify in such certificate, and authorize Asiatics or coloured persons or any specified class of Asiatics or coloured persons to make use of such land for any purpose so specified: Provided that such a certificate shall contain and be subject to the condition that the said Minister may at any time cancel the certificate if it appears to him that the land in question is being used for purposes other than those specified in the certificate.

(7) When the Minister has cancelled the consent mentioned in sub-section (3) or the certificate mentioned in sub-section (6) he may direct the person in whom the land or interest in question is vested to dispose of it, within a specified period, to a person who by law is not disqualified from acquiring it, and if he fails to comply with that direction within the period specified or within any extension of that period which the said Minister may grant, the said land or interest shall vest in the State, but subject

- (d) at die Unie van die buiteland uit besoek en wie se status van die aard is dat dit volgens die Minister se oordeel wenslik is om hom vry te stel van elke wet wat sy bewoning of okkupasie van grond verbied";
- (iii) deur invoeging van die woorde „die verhuring van grond aan of” na die woorde „regsbepalings wat” in sub-artikel (1);
- (iv) deur sub-artikel (3) te skrap en te vervang deur die volgende sub-artikels en die bestaande sub-artikel (4) as sub-artikel (9) aan te dui;

„(3) Iemand vermeld in paragraaf (a) of (b) van sub-artikel (1) kan met skriftelike toestemming van die Minister van Binnelandse Sake, die eiendom van grond of regte op grond verkry wat hy nodig het in verband met sy werk of vir sy woning: Met dien verstande dat die Minister daardie toestemming kan intrek as hy oortuig is dat die betrokke grond anders gebruik word as in verband met die werk of vir die woning van die persoon aan wie die toestemming verleen is.

(4) Wanneer grond of die regte op grond wat deur 'n Asiaat of kleurling kragtens die toestemming van die Minister van Binnelandse Sake volgens sub-artikel (3) verkry is by testamentêre beskikking of intestate vererwing op 'n Asiaat of kleurling oorgaan (hetsy direk of deur 'n tussenerfgenaam of 'n tussenlegataris) dan kan die Asiaat of kleurling op wie dit aldus oorgaan, daardie grond of regte besit gedurende 'n tydperk van vyf jaar vanaf die dood van eersbedoelde Asiaat of kleurling, dog hy is nie geregtig om die betrokke grond te okkupeer nie slegs op grond van sy eiendom daarvan of sy regte daarop.

(5) As 'n Asiaat of kleurling wat, soos voormeld grond of regte op grond geërf het, by verloop van voormelde tydperk van vyf jaar dit nie getranspoteer het aan iemand wat geregtig was om dit te verkry nie, dan gaan die betrokke grond of regte op die Staat oor: Met dien verstande dat as bedoelde Asiaat of kleurling by verloop van voormelde tydperk van vyf jaar in besit is van 'n sertifikaat bedoel in sub-artikel (1), vermoed word dat hy daardie grond of regte verkry het kragtens die toestemming van die Minister van Binnelandse Sake volgens sub-artikel (3).

(6) As die Minister van Binnelandse Sake oortuig is dat grond, waarvan die bewoning, okkupasie of verkryging deur Asiats of kleurlinge deur een of ander wet verbied word, deur Asiats of kleurlinge gebruik word of begeer word vir gebruik uitsluitend vir godsdienstige of opvoedkundige doeleindes of vir ontspanning of vir doeleindes wat daarmee in verband staan, dan kan hy (na beraadslaging met die Minister van Mynwese, as die bewoning of okkupasie van daardie grond deur Asiats of kleurlinge deur die Goudwet verbied word) deur 'n sertifikaat wat sy handtekening dra, 'n Asiaat of kleurling of 'n vereniging van Asiats of kleurlinge of 'n Asiatiese maatskappy (soos omskrewen in voormelde Wet No. 37 van 1919) magtig om vir die doeleindes en op die voorwaardes wat die Minister van Binnelandse Sake in daardie sertifikaat mag bepaal, voormelde grond of regte daarop te verkry of te huur en Asiats of kleurlinge of 'n bepaalde kategorie van Asiats of kleurlinge magtig om van bedoelde grond vir 'n aldus bepaalde doel gebruik te maak: Met dien verstande dat aan so 'n sertifikaat verbonde is die voorwaarde (wat in die sertifikaat vermeld moet word) dat voormelde Minister te eniger tyd die sertifikaat kan intrek as aan hom blyk dat die betrokke grond gebruik word vir ander doeleindes as dié wat in die sertifikaat bepaal word.

(7) Wanneer die Minister die toestemming vermeld in sub-artikel (3), of die sertifikaat vermeld in sub-artikel (6) ingetrek het, dan kan hy die persoon, aan wie die betrokke grond of regte behoort, gelas om dit binne 'n vasgestelde termyn oor te maak aan iemand wat regtens nie onbevoeg is om dit te verkry nie en as hy in gebreke bly om binne die vasgestelde termyn of binne 'n verlenging van daardie termyn wat die Minister mag toestaan, aan daardie bevel te voldoen, dan gaan bedoelde grond of regte

to any charge or servitude with which it may be burdened.

(8) When any land or interest has vested in the State as aforesaid, the Minister of the Interior shall inform the registrar of deeds, in whose registry the title deed to such land or interest is registered, of such vesting and of the particulars of the land or interest in question, and the said registrar shall thereupon record upon the said title deed the fact that the land or interest is vested in the State."

Special relief to certain coloured persons.

11. (1) If a coloured person (as defined in section *three* of the Gold Law) is at the commencement of this Act carrying on (either by virtue of a licence or certificate issued by a competent authority or without such a licence or certificate) a trade or business which he cannot lawfully carry on without holding such a licence or certificate, on a site on land which section *one hundred and thirty* or section *one hundred and thirty-one* of the Gold Law prohibits him from occupying and it appears from the particulars of his occupation of such site as recorded in the register or any recommendation mentioned in section *thirteen* of this Act—

- (a) that such occupation commenced after the first day of May, 1919, but prior to the second day of June, 1932; or
- (b) that such occupation commenced on or after the second day of June, 1932, but that such coloured person—
 - (i) was prior to the second day of June, 1932, carrying on a trade or business under the authority of such a licence or certificate on some other site on such land as aforesaid; or
 - (ii) is the successor in respect of his trade or business to some other coloured person who was prior to the second day of June, 1932, carrying on such trade or business on a site on any such land as aforesaid;

the Minister of the Interior, if he has decided not to issue a notice in terms of sub-section (1) or (2) of section *one hundred and thirty-one A* of the Gold Law in respect of the first-mentioned site, may in his discretion, after consultation with the Minister of Mines, for the purpose of mitigating hardship, by order in writing—

- (a) permit such coloured person and any coloured persons employed from time to time by him on such site to continue to occupy such site during his lifetime, either for trade or business purposes only, or for both trade or business and residential purposes; or
- (b) permit him and any coloured person who may become his successor in title in respect of his trade or business, and any coloured persons employed from time to time by him or such successor on such site, to continue to occupy such premises for a period not exceeding five years from the commencement of this Act, either for trade or business purposes only or for both trade or business and residential purposes,

but subject to any conditions which the Minister of the Interior may specify in such order.

(2) If a coloured person (as defined in section *three* of the Gold Law) is at the commencement of this Act residing on a site on such land as aforesaid, and it appears from the particulars of his occupation of such site as recorded in the register or any recommendation aforesaid, that such occupation commenced prior to the second day of June, 1932, the Minister of the Interior, if he has decided not to issue a notice in terms of sub-section (1) or (2) of section *one hundred and thirty-one A* of the Gold Law in respect of such site, may in his discretion, after consultation as aforesaid, for the purpose of mitigating hardship, by order in writing, permit such coloured person and any member of his household dependent upon or supporting him to continue to reside on such site during the lifetime of such coloured person or for a period not exceeding five years from the commencement of this Act, subject to any conditions which the Minister of the Interior may think fit to specify in such order.

Exemptions include family of exempted person.

12. Whenever any law exempts a coloured person from any prohibition against the residence of coloured persons upon any land, the exemption shall extend to any member of his household who is dependent upon or supporting him.

of whom paragraph (b) applies, be refunded his contributions together with interest at the rate of three per cent. per annum, calculated according to the dates upon which they were paid, and the contributions paid from revenue in respect of any such member shall be repaid to revenue.

(5) Sub-sections (2), (3) and (4) of section *twenty-one* shall *mutatis mutandis* apply in respect of old members: Provided that the benefit payable to an old member under sub-section (2) of the said section as applied by this sub-section shall in no case be less than the amount which would have been payable to such member had he retired voluntarily immediately prior to the fixed date.

Option to take annuity plus gratuity.

9. (1) Notwithstanding the provisions of this Part, an old member may, within six months from the commencement of this Act, or within such further period as the Treasury may in special circumstances allow, or within six months of the date of his resumption of duty under sub-section (2) of section *four*, elect in writing whether or not he is to receive on retirement the benefits specified in sub-section (2) instead of an annuity in terms of any other provision of this Part.

(2) In lieu of an annuity in terms of any other provision of this Part, an old member who elects under sub-section (1) to receive the benefits specified in this sub-section shall receive—

(a) an annuity equal to seventy-five per cent. of and payable upon the same terms and conditions as the annuity to which he would otherwise have been entitled in terms of such other provision; and

(b) a gratuity which shall be calculated—

(i) if such member is discharged on account of ill-health occasioned without his own default, at the rate of ten pounds sixteen shillings, in the case of a male, and of thirteen pounds thirteen shillings in the case of a female, in respect of each pound by which the annual amount which would otherwise have been payable, is reduced; and

(ii) if such member retires or is retired in terms of section *six* or is discharged for a reason mentioned in paragraph (c), (d) or (e) of sub-section (5) of section *twenty-one*, or under sub-section (3) of section *nineteen* of the Public Service Act, according to the following scale:

| MALES. | | | FEMALES. | | |
|---|--|--|---|--|--|
| Nearest age at date of retirement or discharge: | Amount in respect of each pound by which annual amount otherwise payable is reduced: | | Nearest age at date of retirement or discharge: | Amount in respect of each pound by which annual amount otherwise payable is reduced: | |
| | £ s. d. | | | £ s. d. | |
| Up to 30 .. | 17 15 0 | | Up to 30 .. | 18 5 0 | |
| 31 .. | 17 11 0 | | 31 .. | 18 2 0 | |
| 32 .. | 17 8 0 | | 32 .. | 18 0 0 | |
| 33 .. | 17 5 0 | | 33 .. | 17 17 0 | |
| 34 .. | 17 1 0 | | 34 .. | 17 14 0 | |
| 35 .. | 16 18 0 | | 35 .. | 17 11 0 | |
| 36 .. | 16 15 0 | | 36 .. | 17 8 0 | |
| 37 .. | 16 11 0 | | 37 .. | 17 4 0 | |
| 38 .. | 16 7 0 | | 38 .. | 17 1 0 | |
| 39 .. | 16 3 0 | | 39 .. | 16 17 0 | |
| 40 .. | 15 19 0 | | 40 .. | 16 14 0 | |
| 41 .. | 15 15 0 | | 41 .. | 16 11 0 | |
| 42 .. | 15 11 0 | | 42 .. | 16 7 0 | |
| 43 .. | 15 6 0 | | 43 .. | 16 3 0 | |
| 44 .. | 15 2 0 | | 44 .. | 15 19 0 | |
| 45 .. | 14 17 0 | | 45 .. | 15 15 0 | |
| 46 .. | 14 12 0 | | 46 .. | 15 12 0 | |
| 47 .. | 14 7 0 | | 47 .. | 15 8 0 | |
| 48 .. | 14 2 0 | | 48 .. | 15 3 0 | |
| 49 .. | 13 17 0 | | 49 .. | 14 19 0 | |
| 50 .. | 13 11 0 | | 50 .. | 14 15 0 | |
| 51 .. | 13 5 0 | | 51 .. | 14 10 0 | |
| 52 .. | 13 0 0 | | 52 .. | 14 6 0 | |
| 53 .. | 12 14 0 | | 53 .. | 14 2 0 | |
| 54 .. | 12 9 0 | | 54 .. | 13 17 0 | |
| 55 .. | 12 3 0 | | 55 or over | 13 13 0 | |
| 56 .. | 11 18 0 | | | | |
| 57 .. | 11 12 0 | | | | |
| 58 .. | 11 7 0 | | | | |
| 59 .. | 11 1 0 | | | | |
| 60 or over | 10 16 0 | | | | |

trekking of totdat hy die leeftyd van vyf-en-vyftig jaar bereik, na gelang die een of die ander tydperk die kortste is, uit inkomste betaal.

7. 'n Ou lid wat nie minder as tien jaar pensioengewende Jaargelde. diens gehad het nie is, behoudens die bepalings van hierdie Deel, by uitdienststreding of ontslag geregtig op betaling van 'n jaargeld wat gebaseer word op die jaarlikse gemiddelde van sy pensioengewende verdienste gedurende die laaste vyf-en-twintig jaar van sy pensioengewende diens of gedurende die hele tydperk van daardie diens, na gelang die een of die ander tydperk die kortste is, en wat bereken word volgens die skaal van een-sestigste van bedoelde gemiddelde vir elke jaar van pensioengewende diens: Met dien verstande dat die bedrag ten opsigte van so 'n jaargeld uitbetaal voordat so'n lid die pensioenleeftyd bereik het, behalwe in die geval van 'n lid wat weens slegte gesondheid afgedank is en met inagneming van die bepalings van sub-artikel (4) van artikel ses, uit inkomste betaal word.

8. (1) By die pensioengewende diens van 'n ou lid word, Spesiale voordele en ander voordele as jaargelde. by die berekening van 'n jaargeld waarop hy by uitdienststreding of ontslag geregtig is, bygevoeg—

(a) indien hy ooreenkomstig sub-artikel (2) van artikel ses aftree, die tydperk, vyf jaar nie te bowe gaande nie, waarmee sy pensioenleeftyd sy leeftyd by uitdienststreding te bowe gaan: Met dien verstande dat die bedrag waarmee die jaargeld van weë die aldus bygevoegde tydperk verhoog word, uit inkomste betaal word;

(b) indien hy ontslaan word—

(i) weens die opheffing van sy betrekking of 'n vermindering van personeel, reorganisasie of herreëling van departemente, afdelings, dienstakke of kantore, of

(ii) ten einde bekwaamheid of besuiniging te bevorder in die departement of kantoor waartoe hy behoort, of een-derde van die tydperk van daardie diens, of die tydperk, vyf jaar nie te bowe gaande nie, waarmee sy pensioenleeftyd sy leeftyd by sy ontslag te bowe gaan, na gelang die een of die ander tydperk die kortste is: Met dien verstande dat die bedrag waarmee die vermelde jaargeld van weë die aldus bygevoegde tydperk verhoog word, uit inkomste betaal word.

(2) 'n Ou lid wat, voordat hy tien jaar pensioengewende diens gehad het, aftree of afgedank of ontslaan word—

(a) ooreenkomstig artikel ses; of

(b) om 'n rede in paragraaf (b), (c), (d) of (e) van sub-artikel (5) van artikel een-en-twintig vermeld; of

(c) kragtens sub-artikel (3) van artikel negentien van die „Staatsdienst Wet”,

word 'n bedrag gelyk aan sy meerdere bydraes benewens dubbel sy eie bydraes uitbetaal: Met dien verstande dat so'n lid, indien hy aldus ontslaan word om 'n rede in paragraaf (c) of (d) van sub-artikel (5) van artikel een-en-twintig vermeld, voordat hy 'n leeftyd bereik het waarop hy ooreenkomstig artikel ses kan aftree of afgedank kan word, benewens die vermelde bedrag geregtig is op 'n verdere bedrag gelyk aan tweederdes van sy eie bydraes, welke verdere bedrag uit inkomste betaal word.

(3) 'n Ou lid wat 'n vrouspersoon is en wat by haar huwelik ontslaan word of wat met die voorneme om te trou vrywillig uit diens tree en binne drie maande daarna trou, ontvang—

(a) terugbetaling van haar meerdere bydraes; en

(b) 'n bedrag gelyk aan haar eie bydraes benewens twaalf en 'n half persent van daardie bedrag ten opsigte van elke voltooide jaar pensioengewende diens bo twee jaar, maar dubbel die bedrag van haar eie bydraes nie te bowe gaande nie:

Met dien verstande dat die bedrag volgens hierdie sub-artikel betaalbaar in geen geval minder is nie as die bedrag wat betaalbaar sou gewees het indien sy onmiddellik voor die vasgestelde datum aldus ontslaan was of uit diens getree het.

(4) Indien 'n ou lid wat onmiddellik voor die inwerkingtrekking van hierdie Wet tot 'n ou fonds bygedra het—

(a) ingevolge sub-artikel (2) van artikel ses-en-twintig van die „Staatsdienst Wet”, of

(b) ingevolge sub-artikel (3) van artikel ses-en-veertig van daardie Wet,

voordat sy aanstelling bevestig is of voordat hy vas aangestel is of vóór verloop van die eerste drie jaar van sy diens, na gelang van die geval, aftree of afgedank of ontslaan word, word hy, met inagneming *mutatis mutandis* van die bepalings van die tweede voorbehoudsbepaling van paragraaf (a) en (b) van sub-artikel (3) van artikel een-en-twintig, in die geval van 'n ou lid ten aansien van wie paragraaf (a) van toepassing is, sy bydraes terugbetaal, en in die geval van 'n ou lid ten aansien

of retirement or until he attains the age of fifty-five years, whichever is the lesser period.

Annuities.

7. An old member who has had not less than ten years' pensionable service shall, subject to the provisions of this Part, be entitled upon retirement or discharge to payment of an annuity which shall be based upon the annual average of his pensionable emoluments for the last twenty-five years of his pensionable service or for the whole period of such service, whichever may be the lesser period, and which shall be calculated at the rate of one-sixtieth of such average for each year of pensionable service: Provided that the amount paid in respect of any such annuity before such member has attained the pensionable age, shall, except in the case of a member who has been retired on account of ill-health and subject to the provisions of sub-section (4) of section *six*, be paid out of revenue.

Special benefits and benefits other than annuities.

8. (1) There shall be added to the pensionable service of an old member for the purpose of calculating any annuity to which he is entitled upon retirement or discharge—

(a) if he retires in terms of sub-section (2) of section *six*, the period, not exceeding five years, by which his pensionable age exceeds his age at retirement: Provided that the amount by which the annuity is increased by reason of the period so added shall be paid out of revenue;

(b) if he is discharged—

(i) owing to the abolition of his office or to any reduction in or re-organization or re-adjustment of departments, divisions, branches or offices; or

(ii) in order to promote efficiency or economy in the department or office to which he belongs,

either one-third of the period of the said service or the period, not exceeding five years, by which his pensionable age exceeds his age at his discharge, whichever is the lesser period: Provided that the amount by which the said annuity is increased by reason of the period so added, shall be paid out of revenue.

(2) An old member who, before he has had ten years' pensionable service, retires or is retired or discharged—

(a) in terms of section *six*; or

(b) for a reason mentioned in paragraph (b), (c), (d) or (e) of sub-section (5) of section *twenty-one*; or

(c) under sub-section (3) of section *nineteen* of the Public Service Act,

shall be paid an amount equal to his excess contributions, together with twice his own contributions: Provided that if such member is so discharged for a reason mentioned in paragraph (c) or (d) of sub-section (5) of section *twenty-one* before he has attained an age at which he may retire or be retired in terms of section *six*, he shall in addition to the said amount be entitled to a further amount equal to two-thirds of his own contributions, which further amount shall be paid out of revenue.

(3) An old member who is a female and who is discharged on her marriage, or who retires voluntarily in contemplation of marriage and marries within three months thereafter, shall receive—

(a) a refund of her excess contributions; and

(b) an amount equal to her own contributions, together with twelve and one-half per cent. of the said amount in respect of each completed year of pensionable service in excess of two years, but not exceeding twice the amount of her own contributions:

Provided that the sum payable in terms of this sub-section shall in no case be less than the sum that would have been payable if she had been so discharged or had so retired immediately prior to the fixed date.

(4) If an old member who immediately prior to the commencement of this Act was contributing to an old fund—

(a) in terms of sub-section (2) of section *twenty-six* of the Public Service Act; or

(b) in terms of sub-section (3) of section *forty-six* of the said Act,

retires or is retired or discharged before his appointment has been confirmed or before he has been permanently appointed or before the expiry of the first three years of his employment, as the case may be, he shall, subject *mutatis mutandis* to the provisions of the second proviso to paragraphs (a) and (b) of sub-section (3) of section *twenty-one*, in the case of an old member in respect of whom paragraph (a) applies, be refunded his contributions, and in the case of an old member in respect

- (a) die bedrae wat op krediet staan van die ou fondse ;
- (b) die bedrae deur bydraers in die fonds gestort ;
- (c) die bedrae uit inkomste in die fonds gestort ; en
- (d) alle ander bedrae waarmee die fonds dien gekrediteer te word.

(2) Alle pensioene ingevolge hierdie Hoofstuk betaalbaar, word, behoudens andersluidende bepalings, uit die fonds betaal.

4. (1) Iemand wat onmiddellik voor die inwerkingtreding van hierdie Wet 'n lid was van of verplig was om by te dra tot 'n ou fonds kan binne ses maande vanaf daardie datum, of binne so'n verdere tydperk as wat die Tesourie in besondere omstandighede mag toelaat, kies of hy onder die bepalings van Deel A dan wel van Deel B van hierdie Hoofstuk wil val.

Keuse aan lede om onder Deel A of Deel B te val.

(2) Iemand wat 'n jaargeld ontvang wat volgens artikel *ses-en-dertig, twee-en-veertig, agt-en-veertig, of vier-en-vyftig* van die „Staatsdienst Wet” toegeken is, kan nieteenstaande die herroeping van daardie artikels, ooreenkomstig die bepalings van daardie artikels tot diens teruggeroep word, en indien hy wanneer hy aldus teruggeroep word, diens hervat, kan hy binne ses maande vanaf die hervatting van sy diens kies of hy onder die bepalings van Deel A dan wel van Deel B van hierdie Hoofstuk wil val.

(3) Wanneer so iemand ooreenkomstig sub-artikel (1) of (2) sy keuse gedoen het, val hy onder daardie Deel van hierdie Hoofstuk waaronder hy gekies het om te val. Totdat hy sy keuse doen, of as hy versuim om sy keuse te doen binne die tydperk in die genoemde sub-artikels vermeld, val hy onder die bepalings van Deel A van hierdie Hoofstuk.

(4) Die bepalings van Deel A van hierdie Hoofstuk is, behoudens die bepalings van sub-artikel (2), nie van toepassing op enig iemand wat nie onmiddellik voor die inwerkingtreding van hierdie Wet 'n lid was van of verplig was om by te dra tot 'n ou fonds nie.

(5) 'n Keuse ingevolge sub-artikel (1) of (2) moet skriftelik gedoen word.

DEEL A.

OU LEDE.

5. Vanaf die vasgestelde datum of vanaf die datum van Bydraes deur ou dienshervatting in sub-artikel (2) van artikel *vier* bedoel, moet, lede. met inagneming *mutatis mutandis* van die bepalings van artikel *sestien*, iedereen wat onder die bepalings van hierdie Deel val ooreenkomstig die volgende skaal tot die fonds bydra—

| Leeftyd laaste verjaarsdag by aanvang van pensioengewende diens. | Persentasie van pensioengewende verdienste. |
|--|---|
| Tot by 39 | 5.25 |
| 40 | 5.65 |
| 41 | 6.05 |
| 42 | 6.45 |
| 43 | 6.85 |
| 44 | 7.25 |
| 45 | 7.65 |
| 46 en ouer | 8.00 |

Met dien verstande dat enige bydraes met enige rente wat onmiddellik voor die datum vanaf welke hy aldus bydra deur so iemand verskuldig mog wees, betaal word asof hierdie Wet nie aangeneem was nie.

6. (1) Die bepalings van sub-artikels (1) en (2) van artikel *negentien* is, *mutatis mutandis* en behoudens die bepalings van sub-artikels (2), (3) en (4), van toepassing ten aansien van ou lede.

Leeftyd vir uitdienstreding.

(2) 'n Ou lid wat onafgebroke vir tenminste tien jaar onmiddellik voor sy uitdienstreding 'n betrekking of pos beklee het in 'n hospitaal vir melaatse of in 'n staatsinrigting gebruik vir die behandeling van aansteeklike of besmetlike siektes of in 'n hospitaal vir sielsiektes, is, indien sy pligte hom in gereelde daaglikse aanraking bring met pasiënte wat ly aan melaatsheid of aan sulke siektes of geestelik gekrenk is, geregtig om af te tree wanneer of nadat hy die leeftyd van vyftig jaar bereik het.

(3) 'n Ou lid wat 'n lid is van die dienste en wat die leeftyd van vyf-en-veertig jaar bereik het, kan met pensioen afgedank word.

(4) 'n Ou lid wat—

(a) 'n lid is van die dienste,

(b) die leeftyd van vyf-en-veertig jaar bereik het, en

(c) nie minder as vyf-en-twintig jaar pensioengewende diens gehad het nie,

het die reg om af te tree, maar die jaargeld wat aan so'n lid betaal word, word vir vyf jaar vanaf die datum van uitdies-

- (a) the amounts standing to the credit of the old funds ;
- (b) the amounts paid to the fund by contributors ;
- (c) the amounts paid to the fund out of revenue ; and
- (d) any other amounts which are to be credited to the fund.

(2) All pensions payable under this Chapter shall, except where otherwise provided, be paid out of the fund.

Option to members to be subject to Part A or Part B.

4. (1) A person who immediately prior to the commencement of this Act was a member of or was liable to contribute to an old fund may, within six months from that date, or within such further period as the Treasury may in special circumstances allow, elect whether he will be subject to the provisions of Part A or of Part B of this Chapter.

(2) A person who is in receipt of an annuity awarded in terms of section *thirty-six, forty-two, forty-eight* or *fifty-four* of the Public Service Act may, notwithstanding the repeal of those sections, be recalled to duty in accordance with the provisions of those sections, and if, on being so recalled he resumes duty, he may, within six months of his resumption of duty elect whether he will be subject to the provisions of Part A or of Part B of this Chapter.

(3) When any such person has made his election in terms of sub-section (1) or (2) he shall be subject to that part of this Chapter to which he has elected to be subject. Until such time as he makes his election, or if he fails to make his election within the period referred to in the said sub-sections, he shall be subject to the provisions of Part A of this Chapter.

(4) Subject to the provisions of sub-section (2) the provisions of Part A of this Chapter shall not apply to any person who was not a member of or liable to contribute to an old fund immediately prior to the commencement of this Act.

(5) Any election under sub-section (1) or (2) shall be made in writing.

PART A.

OLD MEMBERS.

Contributions by old members.

5. As from the fixed date, or as from the date of resumption of duty referred to in sub-section (2) of section *four*, every person who is subject to the provisions of this Part shall, subject *mutatis mutandis* to the provisions of section *sixteen*, contribute to the fund in accordance with the following scale :—

| Age last birthday at commencement of pensionable service : | Percentage of pensionable emoluments : |
|--|--|
| Up to 39 | 5.25 |
| 40 | 5.65 |
| 41 | 6.05 |
| 42 | 6.45 |
| 43 | 6.85 |
| 44 | 7.25 |
| 45 | 7.65 |
| 46 and over | 8.00 |

Provided that any contributions, together with any interest that may be due by any such person immediately prior to the date as from which he so contributes shall be paid as if this Act had not been passed.

Ages for retirement.

6. (1) The provisions of sub-sections (1) and (2) of section *nineteen* shall *mutatis mutandis* and subject to the provisions of sub-sections (2), (3) and (4), apply in respect of old members.

(2) An old member who has continuously occupied for at least ten years immediately preceding retirement an office or post in a leper hospital or in a Government institution used for the treatment of infectious or contagious diseases or in a mental hospital shall, if his duties bring him into regular daily contact with patients suffering from leprosy or such diseases or from mental disorder, have the right to retire on or after attaining the age of fifty years.

(3) An old member who is a member of the services and who has attained the age of forty-five years may be retired on pension.

(4) An old member who—

- (a) is a member of the services,
- (b) has attained the age of forty-five years, and
- (c) has had not less than twenty-five years' pensionable service,

shall have the right to retire, but the annuity paid to such member shall be paid from revenue for five years from the date

No. 32, 1936.]

WET

Om sekere wette betreffende die pensioene of ander geldelike voordele by uitdienstreding of ontslag betaalbaar aan amptenare op of sedert die een-en-dertigste dag van Mei 1910, in die staatsdiens aangestel, of by die dood van sulke amptenare aan hul afhanklikes, te konsolideer en te wysig, en om verdere voorsiening te maak betreffende en in verband staande met pensioene en ander geldelike voordele aan ander amptenare of hul afhanklikes, of aan ander persone betaalbaar.

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

HOOFSTUK I.**PENSIOENE EN GELDELIKE VOORDELE BY UITDIENSTREDING OF ONTSLAG VAN PERSONE IN DIE STAATSDIENS.**

1. In hierdie Hoofstuk, tensy uit die samehang anders blyk, beteken—

Omskrywing van woorde in hierdie Hoofstuk gebesig.

„agterstallige bydraes” bydraes wat betaalbaar is ten aansien van verstreke tydperke van pensioengewende diens;

„bydraes” die bedrae deur ’n lid in die fonds of ’n ou fonds gestort of aan die fonds of ’n ou fonds verskuldig, maar nie ook rente nie;

„bydraer” ’n bydraer tot die fonds, en ook iemand op verlof wat onmiddellik tevore ’n bydraer was;

„meerdere bydraes” die bedrae, behalwe rente, deur ’n lid betaal of verskuldig—

(a) volgens Hoofstuk III van die „Staatsdienst Wet”, bo vier persent van sy pensioengewende verdienste;

(b) volgens artikel *vyf*, bo vyf en ’n kwart-persent van sy pensioengewende verdienste;

(c) volgens voorwaardes deur die Tesourie ingevolge sub-artikel (2) van artikel *ses-en-twintig* bepaal, vir sover daardie bedrae, tesame met soveel van die bedrag ten opsigte van bedoelde lid ingevolge daardie sub-artikel in die fonds gestort as wat die bydraes deur bedoelde lid betaal voorstel, die bedrag waarop daardie bydraes te staan sou gekom het as hulle ooreenkomstig die skaal in artikel *twaalf* uiteengesit betaal was, te bowe gaan;

„fonds” die Unie-staatsdienspensioenfonds kragtens artikel *drie* gestig;

„lid” ’n ou lid of ’n nuwe lid of albei, soos die samehang vereis;

„nuwe lid” iemand wat tot die fonds bydra ingevolge die bepaling van Deel B van hierdie Hoofstuk;

„amptenaar” enigeen by die staatsdiens in diens wat met salaris of loon betaal word, maar nie ook iemand in artikel *honderd-vier-en-veertig* van die „Zuid-Afrika Wet, 1909” bedoel nie;

„ou fonds” of die Unie-pensioenfonds, of die Unie-dienste pensioenfonds kragtens artikel *vyf-en-twintig* van die „Staatsdienst Wet” gestig, of albei, soos die samehang vereis;

„ou lid” iemand wat tot die fonds bydra ingevolge die bepaling van Deel A van hierdie Hoofstuk;

„eie bydraes” die bedrae deur ’n lid in die fonds of ’n ou fonds gestort of aan die fonds of ’n ou fonds verskuldig, en die bedrag wat die bydraes deur ’n lid betaal ingevolge die bepaling ter regulering van ’n ander pensioenfonds of -plan voorstel en wat ten opsigte van bedoelde lid ingevolge die bepaling van hierdie Wet in die fonds gestort is, maar sluit nie meerdere bydraes en rente in nie.

2. (1) Die ou fondse word geag vanaf die vasgestelde datum saamgesmelt te gewees het met en deel uit te maak het van die Unie-staatsdienspensioenfonds kragtens artikel *drie* gestig.

Saamsmelting van Unie-pensioenfonds en Unie-dienste-pensioenfonds.

(2) Alle bydraes en gelde aan die ou fondse verskuldig, word aan bedoelde fonds betaal en alle betalings wat uit die ou fondse sou moes geskied, geskied uit die bedoelde fonds.

3. (1) Met ingang vanaf die vasgestelde datum word daar ’n fonds gestig, die „Unie-staatsdienspensioenfonds” genoem, wat bestaan uit—

Stigting van nuwe fonds.

ACT

To consolidate and amend certain laws relating to the pensions or other financial benefits payable upon retirement or discharge to officers appointed in the public service on or since the thirty-first day of May, 1910, or upon the death of such officers to their dependants, and to make further provision for and incidental to pensions and other financial benefits payable to other officers or their dependants, or to other persons.

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

CHAPTER I.

PENSIONS AND FINANCIAL BENEFITS UPON RETIREMENT OR DISCHARGE OF PERSONS IN THE PUBLIC SERVICE.

Interpretation of terms used in this Chapter.

1. In this Chapter, unless inconsistent with the context—

“ arrear contributions ” means contributions payable in respect of past periods of pensionable service ;

“ contributions ” means the amounts paid or due by a member to the fund or an old fund, but does not include interest ;

“ contributor ” means any contributor to the fund, and includes a person on leave of absence who was a contributor immediately prior thereto ;

“ excess contributions ” means the amounts, other than interest, paid or due by a member—

(a) in terms of Chapter III of the Public Service Act in excess of four per cent. of his pensionable emoluments ;

(b) in terms of section *five* in excess of five and one quarter per cent. of his pensionable emoluments ;

(c) in terms of any conditions determined by the Treasury under sub-section (2) of section *twenty-six*, in so far as such amounts, together with so much of the amount paid to the fund in respect of such member under that sub-section as represents the contributions paid by such member, are in excess of what would have been the amount of those contributions had they been paid in accordance with the scale set forth in section *twelve* ;

“ fund ” means the Union public service pension fund established under section *three* ;

“ member ” means an old member or a new member or both, as the context requires ;

“ new member ” means a person who contributes to the fund under the provisions of Part B of this Chapter ;

“ officer ” means any person employed in the public service, who is paid by salary or wages, but does not include any person referred to in section *one hundred and forty-four* of the South Africa Act, 1909 ;

“ old fund ” means either the Union pension fund or the Union services pension fund established under section *twenty-five* of the Public Service Act, or both, as the context requires ;

“ old member ” means a person who contributes to the fund under the provisions of Part A of this Chapter ;

“ own contributions ” means the amounts paid or due by a member to the fund or an old fund, and the amount representing the contributions paid by a member under the provisions regulating any other pension fund or scheme, which is paid to the fund in respect of such member under the provisions of this Act, but does not include excess contributions and interest.

Amalgamation of Union pension fund and Union services pension fund.

2. (1) As from the fixed date the old funds shall be deemed to have been amalgamated with and to have formed part of the Union public service pension fund established under section *three*.

(2) All contributions and moneys due to the old funds shall be paid to the said fund and all payments to be made from the old funds shall be made from the said fund.

Establishment of new fund.

3. (1) There shall be established with effect as from the fixed date a fund to be called the “ Union public service pension fund ” which shall consist of—

No. 31, 1936.

WET**Tot wysiging van die Woningwet, 1920.**

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

1. Artikel *elf* van die Woningwet, 1920, word hiermee herroep en deur die volgende artikel vervang:

„Verkrij-
ging van
grond voor
goedge-
keurde
woningen
of schemas.

11. (1) Niettegenstaande teenovergestelde wettelike bepalingen kan een plaatselike autoriteit, met schriftelike goedkeuring van de Minister, grond of rechten tot grond, in het gebied van die autoriteit gelegen, die bedoelde autoriteit nodig heeft om een goedgekeurde woning erop te bouwen of een goedgekeurd schema erop uit te voeren, kopen of onteigenen: Met dien verstande dat de Minister niet de onteigening van grond of van rechten tot grond goedkeurt, tenzij hij overtuigd is dat de plaatselike autoriteit niet in staat is de betrokken grond of rechten op billike voorwaarden te kopen, dat de plaatselike autoriteit over geen andere daarvoor geschikte grond beschikt en dat de plaatselike autoriteit niet in staat is om andere daarvoor geschikte grond op billike voorwaarden te kopen.

(2) Wanneer de Minister, zoals voormeld, de onteigening van grond of van rechten tot grond door een plaatselike autoriteit, goedgekeurd heeft, zijn de bepalingen van Hoofdstuk III van de Slumswet, 1934 (Wet No. 53 van 1934) (met uitzondering van artikels *zeventien* en *achttien*; de tweede voorbehoudsbepaling tot sub-artikel (1) en paragrafen *(e)*, *(f)* en *(g)* van sub-artikel (3) van artikel *twintig*; paragraaf *(d)* van sub-artikel (4) van artikel *zes en twintig* en paragraaf *(a)* van sub-artikel (1) van artikel *zeven en twintig*) *mutatis mutandis* in verband met de onteigening van toepassing.

(3) Indien er op grond, die een plaatselike autoriteit voornemens is aldus door onteigening te verkrijgen, ten tijde van het begin van het onteigeningsgeding een bezigheid of beroep uitgeoefend wordt en aan die bezigheid of dat beroep een klandizie verbonden is, die te loor zal gaan of in waarde zal verminderen ten gevolge van de onteigening, dan kan de scheidsrechter in het onteigeningsgeding in zijn toekenning van de schadevergoeding die de plaatselike autoriteit aan de eigenaar van de betrokken grond moet betalen, benevens de waarde van de grond, vastgesteld volgens voormelde bepalingen van Hoofdstuk III van de Slumswet, 1934, een bedrag insluiten, gelijk aan het verlies dat bedoelde eigenaar waarschijnlijk zal lijden ten gevolge van het verlies of de waardevermindering van bedoelde klandizie, doch dat bijkomende bedrag mag niet meer belopen dan de netto winst die bedoelde bezigheid of dat beroep opgeleverd heeft gedurende het tijdperk van één jaar onmiddellijk aan het begin van het onteigeningsgeding voorafgaande.

2. Hierdie Wet heet die Woning Wysigingswet, 1936.” Kort titel.

Vervanging van
artikel 11 van
Wet 35 van
1920.

De afkondiging
van de Wet is
gevolgd door
de afkondiging
van de Wet

No. 31, 1936.

ACT

To amend the Housing Act, 1920.

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

Substitution of section 11 of Act 35 of 1920.

1. Section *eleven* of the Housing Act, 1920, is hereby repealed and the following section substituted therefor:

“Acquisition of land for approved dwellings or schemes. 11. (1) Notwithstanding anything to the contrary in any law contained, a local authority may, with the approval in writing of the Minister, purchase or expropriate any land or any interest in land situate within its area of jurisdiction, which it requires for the purpose of erecting thereon an approved dwelling or of carrying out thereon an approved scheme: Provided that the Minister shall not approve of the expropriation of any land or of the interest in any land, unless he is satisfied that the local authority is unable to purchase the said land or interest on reasonable terms that no other suitable land is available to the local authority for the said purpose and that the local authority is unable to purchase on reasonable terms other suitable land for the said purpose.

(2) When the Minister has approved of the expropriation of land or any interest in land by a local authority, as aforesaid, the provisions of Chapter III. of the Slums Act, 1934 (Act No. 53 of 1934) (other than sections *seventeen* and *eighteen*; the second proviso to sub-section (1) and paragraphs (e), (f) and (g) of sub-section (3) of section *twenty*; paragraph (d) of sub-section (4) of section *twenty-six* and paragraph (a) of sub-section (1) of section *twenty-seven*) shall *mutatis mutandis* apply in connection with the expropriation.

(3) If upon any land which a local authority intends so to acquire by expropriation, any business or occupation is being carried on at the time of the commencement of the expropriation proceedings, and a goodwill attaches to that business or occupation which will be lost or diminished in value as a result of the expropriation, the arbitrator in the expropriation proceedings may include in his award of the compensation which the local authority shall pay to the owner of the land in question, in addition to the value of that land, determined in accordance with the aforesaid provisions of Chapter III of the Slums Act, 1934, an amount equal to the loss which the said owner is likely to sustain by reason of the loss or diminution in value of the said goodwill, but that additional amount shall not exceed the net profit derived from the said business or occupation during the period of one year immediately preceding the commencement of the expropriation proceedings.”

Short title.

2. This Act shall be called the Housing Amendment Act, 1936.

skriftelike kennisgewing oorhandig of per aangetekende brief oor die pos stuur om die grond wat hy tevore geokkupeer het en die grond op die okkupasie waarvan hy aldus ingetree het, volledig te beskrywe en die grootte van daardie grond, die datum waarop die okkupasie aangevang het en die tydperk waarvoor hy die reg op sodanige okkupasie verkry het, aan te gee.

(2) Indien 'n persoon op wie sub-artikel (1) van toepassing is, versuim om daaraan te voldoen, is hy aan 'n misdryf skuldig en aan 'n boete van hoogstens vyftig pond onderhewig.

17. (1) Indien die Minister van Binnelandse Sake aan die Administrateur van die Provinsie Transvaal meegedeel het dat hy rede het om aan te neem dat 'n in paragraaf (a) van sub-artikel (1) van artikel *veertien* genoemde oppervlakte of 'n ander oppervlakte wat aangewys is vir okkupasie deur Asiate kragtens artikel *tien* van die „Municipal Amending Ordinance, 1905 (Transvaal)“ wat binne die regsgebied van 'n munisipale raad of dorpsraad of gesondheidskomitee geleë is, deur daardie raad of komitee nie behoorlik beheer word nie, kan genoemde Administrateur nadat hy 'n ondersoek laat instel het (waarby genoemde raad of komitee die geleentheid verskaf word om verhoor te word), van die raad of komitee by skriftelike kennisgewing verlang om die in genoemde kennisgewing omskrewe werk wat die raad of komitee bevoeg is om uit te voer en wat volgens oordeel van die Administrateur vir die behoorlike beheer van die oppervlakte nodig is, onverwyld uit te voer, en indien die raad of komitee nalaat om aan daardie kennisgewing te voldoen, kan die Administrateur daardie werk self laat uitvoer en vir daardie doel iemand magtig om 'n handeling te verrig wat die raad of komitee wettig kon verrig.

(2) Die Administrateur kan op die betrokke raad of komitee die deur hom kragtens hierdie artikel aangegane uitgawes verhaal—

- (a) deur 'n geding in 'n bevoegde hof teen die nalatige plaaslike liggaam; of
- (b) deur 'n spesiale belasting op alle belasbare eiendom in die distrik van die nalatige plaaslike liggaam te hef; of
- (c) deur aftrekking van 'n subsidie, toekenning of ander gelde betaalbaar uit die Gekonsolideerde Inkomstefonds of betaalbaar deur die Administrateur aan die nalatige plaaslike liggaam,

of deur al drie of enige twee van sodanige verhaalmodes, en die Administrateur se sertifikaat is bewys van die deur die plaaslike liggaam kragtens hierdie artikel verskuldigde bedrag, onderworpe aan appèl na die Minister van Binnelandse Sake, wie se beslissing afdoende is.

18. Indien 'n oppervlakte wat voor die een-en-dertigste dag van Mei 1910 kragtens paragraaf (d) van artikel *twee* van Wet No. 3 van 1885 van Transvaal vir okkupasie deur Asiate afgesonderd was, op die sewen-en-twintigste dag van Mei 1936 nie deur 'n Asiat geokkupeer was nie of op daardie datum deur persone geokkupeer was van wie die meerderheid volgens oordeel van die Minister van Binnelandse Sake nie Asiate was nie, kan genoemde Minister by kennisgewing in die *Staatskoerant* genoemde afsondering van daardie oppervlakte vir okkupasie deur Asiate intrek, hetsy daardie oppervlakte al dan nie tevore aan die raad van 'n munisipaliteit kragtens sub-artikel (2) van artikel *tien* van die „Municipal Amending Ordinance, 1905“ van Transvaal oorgedra is: Met dien verstande dat sodanige intrekking die regte van 'n Asiat wat voor sodanige intrekking grond of regte op grond in genoemde oppervlakte geleë verkry het, nie raak nie.

19. Hierdie Wet heet die Wysigingswet op Grondbesit van Kort titel. Asiate in Transvaal, 1936.

Maatreëls om behoorlike munisipale administrasie van oppervlaktes voorbehou vir Asiatische okkupasie te verseker.

Intrekking van afsondering van Asiatische oppervlaktes.

fully the land which he previously occupied, the land upon the occupation whereof he so entered, and stating the extent of that land, the date upon which the occupation commenced and the period for which he acquired the right of such occupation.

(2) If any person to whom sub-section (1) applies fails to comply therewith, he shall be guilty of an offence and liable to a fine not exceeding fifty pounds.

Measures to ensure proper municipal administration of areas reserved for Asiatic occupation.

17. (1) If the Minister of the Interior has informed the Administrator of the Province of Transvaal that he has reason to believe that an area mentioned in paragraph (a) of sub-section (1) of section *fourteen* or any other area set apart for occupation by Asiatics under section *ten* of the Municipal Amending Ordinance, 1905 (Transvaal) which is situate within the area of jurisdiction of a municipal council or village council or health committee, is not properly administered by that council or committee, the said Administrator may, after causing an enquiry to be held (at which the said council or committee shall be afforded an opportunity of being heard), call upon the council or committee, by notice in writing, forthwith to carry out any work defined in the said notice which the council or committee has power to carry out and which is, in the opinion of the Administrator, necessary for the proper administration of that area, and if the council or committee fails to comply with that notice, the Administrator may himself cause that work to be carried out and may for that purpose authorize any person to perform any act which the council or committee could lawfully perform.

(2) The Administrator may recover from the council or committee concerned any expenditure incurred by him under this section—

- (a) by action in a competent court against the local authority in default; or
- (b) by levying a special rate upon all rateable property within the district of the local authority in default; or
- (c) by deduction from any subsidy, grant or other moneys payable out of the Consolidated Revenue Fund or payable by the Administrator to the local authority in default,

or by all three or any two of such methods of recovery, and the Administrator's certificate shall be proof of the amount due by the local authority under this section, subject to an appeal to the Minister of the Interior, whose decision shall be final.

Cancellation of assignment of Asiatic areas.

18. If an area which was before the thirty-first day of May, 1910, assigned in terms of paragraph (d) of article *two* of Law No. 3 of 1885 of Transvaal for occupation by Asiatics, was upon the twenty-seventh day of May, 1936, not occupied by any Asiatic or was, upon that date occupied by persons of whom the majority were, in the opinion of the Minister of the Interior, not Asiatics, the said Minister may, by notice in the *Gazette*, cancel the said assignment of that area for occupation by Asiatics, whether that area was or was not previously transferred to the Council of a Municipality in terms of sub-section (2) of section *ten* of the Municipal Amending Ordinance, 1905 of Transvaal: Provided that such cancellation shall not affect the rights of any Asiatic who before such cancellation acquired any land or interest in land situate within the said area.

Short title.

19. This Act shall be called the Transvaal Asiatic Land Tenure Amendment Act, 1936.

13. Die register van persone wat grond wettig of onwettig okkupeer, opgestel deur die Kommissie vermeld in Goewermentskennisgewing No. 1324 van 1932 en die aanbevelings van daardie Kommissie met betrekking tot daardie persone, word bewaar deur 'n amptenaar wat die Minister van Binnelandse Sake daartoe aangewys het. 'n Bewering van een of ander feit in bedoelde register of in so 'n aanbeveling of in 'n afskrif van of uittreksel uit daardie register of so 'n aanbeveling, wat voorgee om deur bedoelde amptenaar gewaarmerk te wees as 'n juiste afskrif of uittreksel, strek *prima facie* tot bewys van daardie feit.

Bewyskrag van kommissie se register.

14. (1) Die Minister van Binnelandse Sake laat registers opstel bevattende—

Registers van vrygestelde persone en stukke grond.

(a) die beskrywing van elke oppervlakte waarin 'n Asiaat kragtens paragraaf (b) van artikel twee van Wet No. 3 van 1885 van Transvaal of van sub-artikel (1)bis van artikel tien van die „Municipal Amending Ordinance, 1905”, van Transvaal of van sub-artikel (10) van artikel honderd-een-en-dertig A van die Goudwet die eiendom van grond kan verkry;

(b) die beskrywing van elke stuk grond wat kragtens sub-artikel (1) en paragraaf (b) van sub-artikel (3) of sub-artikel (7) van genoemde artikel honderd-een-en-dertig A vrygestel is of in die titelbewyse waarvan 'n onderskeid tot nadeel van kleurlinge kragtens sub-artikel (2) en paragraaf (b) van sub-artikel (3) of sub-artikel (7) van genoemde artikel ingetrek is, en van elke stuk grond wat kragtens sub-artikel (11) van genoemde artikel honderd-een-en-dertig A 'n bykomende perseel of gemeenskaplike agterplaas ten opsigte van so 'n eersgenoemde stuk grond uitmaak;

(c) die naam voluit van elke persoon wat in wettige okkupasie is van grond wat hy nie wettig kon okkupeer indien die bepalings van die „Aziaten (Grond en Bezigheid) Wijzigings Wet (Transvaal), 1919” (Wet No. 37 van 1919) nie van krag was nie, en 'n beskrywing van die bepaalde stuk grond wat elke sodanige persoon aldus okkupeer; en indien bedoelde Minister aan so 'n persoon 'n sertifikaat kragtens sub-artikel (2) van artikel een van genoemde Wet No. 37 van 1919 uitreik, 'n beskrywing van elke stuk grond wat so 'n persoon kragtens daardie sertifikaat kan okkupeer en 'n opgawe van die voorwaardes aan daardie sertifikaat geheg;

(d) die naam voluit van elke persoon wat kragtens 'n order onder artikel elf van hierdie Wet uitgereik geregtig is om op grond te woon of dit andersins te okkupeer, en 'n beskrywing van die bepaalde stuk grond wat so 'n persoon aldus geregtig is om op te woon of andersins te okkupeer en die voorwaardes geheg aan so 'n order.

(2) Genoemde registers is in bewaring van die in artikel dertien genoemde amptenaar, wat dit van tyd tot tyd wysig of aanvul om dit korrek en volledig te hou.

(3) Indien dit uit die register kragtens paragraaf (c), (d) of (e) van sub-artikel (1) opgestel, blyk dat 'n bepaalde persoon 'n bepaalde stuk grond okkupeer, word dit geag dat, tensy die teendeel bewys word, daardie persoon nie verbied is om daardie grond te okkupeer nie, en 'n verklaring wat voorgee geteken te wees deur die in sub-artikel (2) genoemde amptenaar en wat beweert dat dit uit so 'n register blyk dat 'n in daardie verklaring genoemde persoon 'n daarin beskrewe stuk grond okkupeer, is *prima facie* bewys van die juistheid van daardie verklaring.

15. Enige persoon is by betaling van 'n fooi van een sjieling geregtig om die in artikel dertien genoemde register en aanbevelings of 'n in artikel veertien genoemde register in te sien en uittreksels daaruit te maak, en die amptenaar wat die registers in bewaring het, moet aan enige persoon wat daarom aansoek doen 'n gewaarmerkte afskrif van enige aantekening in so 'n register of van so 'n aanbeveling, of 'n verklaring in sub-artikel (3) van artikel veertien genoem, verstrek by betaling van 'n fooi van vyf sjielings en 'n verdere sjieling vir elke honderd woorde of deel van elke honderd woorde na die eerste honderd woorde.

Insage in registers en verkryging van sertifikate.

16. (1) Wanneer 'n in paragraaf (c) van sub-artikel (1) van artikel veertien genoemde persoon na die inwerkingtreding van hierdie Wet in wettige okkupasie tree van in daardie sub-artikel genoemde grond, moet hy binne 'n tydperk van veertien dae vanaf die dag waarop hy in sodanige okkupasie getree het, aan die in artikel dertien genoemde amptenaar 'n

Kennisgewing van verandering van okkupasie van sekere grond.

Commission's register as evidence.

13. The register of persons who are in legal or illegal occupation of any land, which was compiled by the Commission mentioned in Government Notice No. 1324 of 1932, and, the recommendations made by that Commission in regard to those persons, shall be in the custody of an officer designated for the purpose by the Minister of the Interior, and a statement of any fact, in such register or any such recommendation or in any copy of an extract from such register or any such recommendation which purports to have been certified by the said officer to be a true copy or correct extract, shall be *prima facie* proof of that fact.

Registers of exempted persons and pieces of land.

14. (1) The Minister of the Interior shall cause registers to be compiled, containing—

- (a) the description of every area wherein any Asiatic may in terms of paragraph (b) of article two of Law No. 3 of 1885 of Transvaal or of sub-section (1)*bis* of section ten of Municipal Amending Ordinance, 1905 of Transvaal or of sub-section (10) of section one hundred and thirty-one A of the Gold Law, acquire the ownership of land;
- (b) the description of every piece of land which has been exempted in terms of sub-section (1) and paragraph (b) of sub-section (3) or sub-section (7) of the said section one hundred and thirty-one A or in whose title deeds a discrimination against coloured persons was cancelled in terms of sub-section (2) and paragraph (b) of sub-section (3) or sub-section (7) of the said section, and of every piece of land which constitutes, in terms of sub-section (11) of the said section one hundred and thirty-one A auxiliary premises or a common yard with reference to any such firstmentioned piece of land;
- (c) the name in full of every person who is in lawful occupation of any land which he could not lawfully occupy if the provisions of the Asiatic (Land and Trading) Amendment (Transvaal) Act, 1919 (Act No. 37 of 1919), were not in force, and a description of the particular piece of land which every such person so occupies; and if the said Minister issued to any such person a certificate in terms of sub-section (2) of section one of the said Act No. 37 of 1919, a description of every piece of land which such person may occupy by virtue of that certificate and a statement of the conditions attaching to that certificate;
- (d) the name in full of every person who is by virtue of an order made in terms of section eleven of this Act entitled to reside upon or otherwise occupy any land, and a description of the particular piece of land which any such person is so entitled to reside upon or otherwise occupy and the conditions attaching to any such order.

(2) The said registers shall be in the custody of the officer mentioned in section thirteen, who shall amend or amplify them from time to time so as to maintain them accurate and complete.

(3) If it appears from the register compiled in terms of paragraph (c), (d) or (e) of sub-section (1) that a particular person occupies a particular piece of land, that person shall be deemed not to be prohibited from occupying that land, unless the contrary is proved, and a statement which purports to have been signed by the officer mentioned in sub-section (2) and which alleges that it appears from any such register that a person named in that statement occupies a piece of land described therein, shall be *prima facie* proof of the correctness of that statement.

Inspection of registers and obtaining of certificates.

15. Any person shall be entitled to inspect and to make extracts from the register and recommendations mentioned in section thirteen or any register mentioned in section fourteen, on payment of a fee of one shilling and the officer in whose custody those registers are shall furnish any person applying therefor with a certified copy of any entry in any such register or of any such recommendation, or with a statement mentioned in sub-section (3) of section fourteen on payment of a fee of five shillings and an additional shilling for every hundred words or part of every hundred words exceeding the first hundred words.

Notice of change of occupation of certain land.

16. (1) Whenever a person mentioned in paragraph (c) of sub-section (1) of section fourteen after the commencement of this Act enters into lawful occupation of any land mentioned in that sub-section, he shall, within a period of fourteen days as from the date upon which he entered into such occupation deliver or send by post in a registered letter to the officer mentioned in section thirteen a notice in writing describing

op die Staat oor, dog behoudens een of ander las of serwituit waarmee dit beswaar mag wees.

(8) As grond of regte soos voormeld op die Staat oorgegaan het, verwittig die Minister van Binnelandse Sake die registrateur van aktes in wie se registrasiekantoor die titelbewys van daardie grond of regte geregistreer is, van daardie oorgang en deel hom die besonderhede van die betrokke grond of regte mee, en daarop teken bedoelde registrateur op voormelde titelbewys aan dat die grond of belang aan die Staat behoort."

11. (1) As 'n kleurling (soos in artikel *drie* van die Goudwet omskrewe) by die inwerkingtreding van hierdie Wet (hetsy kragtens 'n lisensie of sertifikaat deur 'n bevoegde gesag uitgereik, hetsy sonder so 'n lisensie of sertifikaat) 'n ambag of besigheid dryf wat hy sonder so 'n lisensie of sertifikaat te besit, nie wettig kan dryf nie, op 'n perseel op grond wat hy weens 'n verbod van artikel *honderd-en-dertig* of *honderdeen-en-dertig* van die Goudwet nie mag okkupeer nie, en uit die besonderhede van sy okkupasie van bedoelde grond, soos vermeld in die register of 'n aanbeveling bedoel in artikel *dertien* van hierdie Wet, blyk—

Spesiale tege-
moetkoming aan
sekere kleurlinge.

- (a) dat daardie okkupasie na die eerste dag van Mei 1919, maar voor die tweede dag van Junie 1932 begin het; of
- (b) dat daardie okkupasie op of na die tweede dag van Junie 1932 begin het, maar dat daardie kleurling—
 - (i) voor die tweede dag van Junie 1932 kragtens so 'n lisensie of sertifikaat 'n ambag of besigheid gedryf het op 'n ander perseel op sodanige grond; of
 - (ii) met betrekking tot sy ambag of besigheid die regsopvolger is van 'n ander kleurling wat voor die tweede dag van Junie 1932 daardie ambag of besigheid gedryf het op 'n perseel op sodanige grond soos voormeld,

dan kan die Minister van Binnelandse Sake, as hy besluit het om met betrekking tot eersbedoelde perseel geen kennisgewing kragtens sub-artikel (1) of (2) van artikel *honderdeen-en-dertig A* van die Goudwet uit te reik nie, volgens goedvinde, na beraadslaging met die Minister van Mynwese, ten einde verligting te verleen, by skriftelike order—

- (a) bedoelde kleurling en kleurlinge wat hy van tyd tot tyd op bedoelde perseel in diens het, veroorloof om daardie perseel gedurende sy lewe te bly okkupeer, hetsy alleen vir 'n ambag of besigheid, hetsy vir 'n ambag of besigheid en ook ter bewoning; of
- (b) hom en 'n kleurling wat met betrekking tot sy ambag of besigheid sy regsopvolger mog word, en kleurlinge wat hy of so 'n regsopvolger van tyd tot tyd op bedoelde perseel in diens het, veroorloof om daardie perseel gedurende 'n tydperk van nie meer as vyf jaar vanaf die inwerkingtreding van hierdie Wet te bly okkupeer, hetsy alleen vir 'n ambag of besigheid, hetsy vir 'n ambag of besigheid en ook ter bewoning, dog op die voorwaardes wat die Minister van Binnelandse Sake in bedoelde order mag stel.

(2) As 'n kleurling (soos in artikel *drie* van die Goudwet omskrewe) by die inwerkingtreding van hierdie Wet 'n perseel bewoon op sodanige grond as voormeld, en uit die besonderhede van sy okkupasie van daardie perseel, soos vermeld in die register of 'n aanbeveling voormeld, blyk dat daardie okkupasie voor die tweede dag van Junie 1932 begin het, dan kan die Minister van Binnelandse Sake, as hy besluit het om met betrekking tot daardie perseel geen kennisgewing kragtens sub-artikel (1) of (2) van artikel *honderdeen-en-dertig A* van die Goudwet uit te reik nie, volgens goedvinde, na voormelde beraadslaging, ten einde verligting te verleen, by skriftelike order bedoelde kleurling en elke lid van sy gesin wat van hom afhanklik is of wat hom ondersteun, veroorloof om gedurende die lewe van bedoelde kleurling of gedurende 'n tydperk van nie meer as vyf jaar vanaf die inwerkingtreding van hierdie Wet, op bedoelde perseel te bly woon, op die voorwaardes wat die Minister van Binnelandse Sake in bedoelde order mag stel.

12. Wanneer een of ander regsbeplanning 'n kleurling vrystel van 'n verbod teen bewoning van grond deur kleurlinge, dan omvat die vrystelling ook elke lid van sy gesin wat van hom afhanklik is of hom ondersteun.

Vrystelling omvat
gesin van
vrygestelde per-
soon.

van wie paragraaf (b) van toepassing is, sy bydraes met rente teen die koers van drie persent per jaar, bereken volgens die datums waarop hul betaal is, en die bydraes ten aansien van so'n lid uit inkomste betaal, word in inkomste teruggestort.

(5) Sub-artikels (2), (3) en (4) van artikel *een-en-twintig* is *mutatis mutandis* van toepassing ten aansien van ou lede: Met dien verstande dat die voordeel ingevolge sub-artikel (2) van die vermelde artikel soos deur hierdie sub-artikel van toepassing verklaar, aan 'n ou lid betaalbaar, in geen geval minder is nie as die bedrag wat aan so 'n lid betaalbaar sou gewees het indien hy onmiddellik voor die vasgestelde datum vrywillig uit diens getree het.

9. (1) 'n Ou lid kan nieteenstaande die bepalings van hierdie Deel binne ses maande vanaf die inwerkingtreding van hierdie Wet, of binne so 'n verdere tydperk as wat die Tesourie in besondere omstandighede mag toelaat, of binne ses maande vanaf die hervatting van sy diens ingevolge sub-artikel (2) van artikel *vier*, skriftelik kies of hy al dan nie by uitdienstreding die in sub-artikel (2) bedoelde voordele moet ontvang in plaas van 'n jaargeld ingevolge enige ander bepaling van hierdie Deel.

Keuse om jaargeld plus gratifikasie te neem.

(2) In plaas van 'n jaargeld ingevolge enige ander bepaling van hierdie Deel, ontvang 'n ou lid wat kragtens sub-artikel (1) kies om die in hierdie sub-artikel bedoelde voordele te ontvang—

(a) 'n jaargeld gelyk aan vyf-en-sewentig persent van en betaalbaar op dieselfde voorwaardes as die jaargeld waarop hy anders ingevolge bedoelde ander bepaling geregtig sou gewees het; en

(b) 'n gratifikasie wat bereken word—

(i) indien so 'n lid ontslaan word op grond van slegte gesondheid buite sy eie toedoen veroorsaak, volgens die skaal van tien pond sestien sjielings by 'n manspersoon, en dertien pond dertien sjielings by 'n vrouspersoon, ten opsigte van elke pond waarmee die jaarlikse bedrag wat anders betaalbaar sou gewees het, verminder word; en

(ii) indien so 'n lid ooreenkomstig artikel *ses* aftree of afgedank word, of om 'n rede in paragraaf (c), (d) of (e) van sub-artikel (5) van artikel *een-en-twintig* vermeld of kragtens sub-artikel (3) van artikel *negentien* van die „Staatsdienst Wet” ontslaan word, ooreenkomstig die volgende skaal:

| MANSPERSONE. | | | VROUSPERSONE. | | |
|---|---|---------|---|---|---------|
| Naaste leeftyd op datum van uitdienstreding of ontslag: | Bedrag ten opsigte van elke pond waarmee jaarlikse bedrag anders betaalbaar verminder word: | £ s. d. | Naaste leeftyd op datum van uitdienstreding of ontslag: | Bedrag ten opsigte van elke pond waarmee jaarlikse bedrag anders betaalbaar verminder word: | £ s. d. |
| Tot by 30 | .. | 17 15 0 | Tot by 30 | .. | 18 5 0 |
| 31 | .. | 17 11 0 | 31 | .. | 18 2 0 |
| 32 | .. | 17 8 0 | 32 | .. | 18 0 0 |
| 33 | .. | 17 5 0 | 33 | .. | 17 17 0 |
| 34 | .. | 17 1 0 | 34 | .. | 17 14 0 |
| 35 | .. | 16 18 0 | 35 | .. | 17 11 0 |
| 36 | .. | 16 15 0 | 36 | .. | 17 8 0 |
| 37 | .. | 16 11 0 | 37 | .. | 17 4 0 |
| 38 | .. | 16 7 0 | 38 | .. | 17 1 0 |
| 39 | .. | 16 3 0 | 39 | .. | 16 17 0 |
| 40 | .. | 15 19 0 | 40 | .. | 16 14 0 |
| 41 | .. | 15 15 0 | 41 | .. | 16 11 0 |
| 42 | .. | 15 11 0 | 42 | .. | 16 7 0 |
| 43 | .. | 15 6 0 | 43 | .. | 16 3 0 |
| 44 | .. | 15 2 0 | 44 | .. | 15 19 0 |
| 45 | .. | 14 17 0 | 45 | .. | 15 15 0 |
| 46 | .. | 14 12 0 | 46 | .. | 15 12 0 |
| 47 | .. | 14 7 0 | 47 | .. | 15 8 0 |
| 48 | .. | 14 2 0 | 48 | .. | 15 3 0 |
| 49 | .. | 13 17 0 | 49 | .. | 14 19 0 |
| 50 | .. | 13 11 0 | 50 | .. | 14 15 0 |
| 51 | .. | 13 5 0 | 51 | .. | 14 10 0 |
| 52 | .. | 13 0 0 | 52 | .. | 14 6 0 |
| 53 | .. | 12 14 0 | 53 | .. | 14 2 0 |
| 54 | .. | 12 9 0 | 54 | .. | 13 17 0 |
| 55 | .. | 12 3 0 | 55 of ouer | 13 13 0 | |
| 56 | .. | 11 18 0 | | | |
| 57 | .. | 11 12 0 | | | |
| 58 | .. | 11 7 0 | | | |
| 59 | .. | 11 1 0 | | | |
| 60 of ouer | 10 | 16 0 | | | |

(3) If an annuity, or part thereof, is, in terms of section *six, seven or eight*, payable out of revenue, there shall, in the case of a member who elects to receive the benefits specified in sub-section (2), be paid out of revenue—

- (a) seventy-five per cent. of the annuity that would otherwise have been payable to such member out of revenue; and
- (b) so much of the gratuity paid to such member as is deemed by an actuary to be the capitalized value of the remaining twenty-five per cent. of the said annuity.

Gratuity on death before, or soon after, retirement.

10. (1) If an old member dies before his retirement from the public service, there shall, subject *mutatis mutandis* to the provisions of sub-section (3) of section *twenty-two*, be paid to or for the benefit of such of his dependants as the Treasury may determine an amount equal to his excess contributions, together with twice his own contributions.

(2) Sub-section (2) of section *twenty-two* shall *mutatis mutandis* apply in respect of old members.

PART B.

NEW MEMBERS.

Contributions by persons who have elected under section 4 to be new members.

11. A person who in terms of section *four* elects to be subject to the provisions of this Part, shall, as from the fixed date, or in the case of a person referred to in sub-section (2) of the said section, as from the date of his resumption of duty, contribute to the fund in accordance with the scale set forth in section *twelve*: Provided that the difference between the contributions according to the said scale and the contributions paid by such person in respect of any period between any such date and the date on which he elects to be subject to the provisions of this Part shall be deducted, unless the Treasury otherwise directs, from the next amount of pensionable emoluments paid to such person: Provided further that any contributions, together with any interest that may be due by such person immediately prior to the date as from which he so contributes shall be paid as if this Act had not been passed.

Contributions by new members other than persons who have elected to be new members under section 4.

12. Subject to the provisions of sections *five, thirteen, fourteen and sixteen*, every officer shall contribute to the fund in accordance with the following scale:

| Age last birthday at commencement of pensionable service: | Percentage of pensionable emoluments: |
|---|---------------------------------------|
| Up to 21 | 5½ |
| 22 to 26 | 6 |
| 27 to 30 | 6½ |
| 31 to 34 | 7 |
| 35 to 38 | 7½ |
| 39 and over | 8 |

Persons appointed on probation or temporarily employed.

13. (1) A person who is appointed on probation to or employed temporarily in a post in one of the divisions of the public service and who is eligible for permanent appointment to such post shall, subject to the provisions of section *sixteen*, be given the option of contributing provisionally in respect of his probationary or temporary service. Such option shall be exercised in writing within one month from the date upon which such person is called upon by the head of his department to do so. If he elects to contribute, contributions shall be made from the date of such appointment or employment and the total contributions from that date shall be deducted, unless the Treasury otherwise directs, from the next amount of pensionable emoluments paid to him. If he elects not to contribute or fails to make his election within the prescribed period, he shall not be permitted to contribute in respect of such probationary or temporary service at any future date: Provided that if such person is transferred from pensionable employment under any government referred to in section *forty-two*, or under any administration, or from such employment in an institution for higher education, and appointed on probation to a post in the public service, he shall contribute to the fund notwithstanding that such appointment is on probation, and the contributions paid by him shall not be regarded as being provisional.

(2) The provisions of this section shall *mutatis mutandis* apply in respect of any person who, immediately prior to the date of commencement of this Act, is employed in the circumstances described in sub-section (2) of section *twenty-six* of

(3) Indien 'n jaargeld, of 'n gedeelte daarvan, volgens artikel *ses, sewe of agt* uit inkomste betaalbaar is, word, in die geval van 'n lid wat kies om die in sub-artikel (2) bedoelde voordele te ontvang, uit inkomste betaal—

- (a) vyf-en-sewentig persent van die jaargeld wat anders aan so 'n lid uit inkomste betaalbaar sou gewees het; en
- (b) soveel van die gratifikasie aan so 'n lid uitbetaal as wat deur 'n aktuaris geag word die gekapitaliseerde waarde te wees van die oorblywende vyf-en-twintig persent van daardie jaargeld.

10. (1) Indien 'n ou lid voor sy uittreding uit die staatsdiens te sterwe kom, word, met inagneming *mutatis mutandis* van die bepalinge van sub-artikel (3) van artikel *twee-en-twintig*, aan of ten bate van diegene van sy afhanklikes wat die Tesourie mag aanwys, 'n bedrag gelyk aan sy meerdere bydraes benewens dubbel sy eie bydraes uitbetaal.

Gratifikasie by dood voor of kort na uittreding.

(2) Sub-artikel (2) van artikel *twee-en-twintig* is *mutatis mutandis* van toepassing ten aansien van ou lede.

DEEL B.

NUWE LEDE.

11. Iemand wat ingevolge artikel *vier* kies om onder die bepalinge van hierdie Deel te val moet vanaf die vasgestelde datum, of in die geval van iemand in sub-artikel (2) van die genoemde artikel bedoel, vanaf die datum van die hervatting van sy diens, tot die fonds bydra ooreenkomstig die skaal in artikel *twaalf* uiteengesit: Met dien verstande dat die verskil tussen die bydraes ooreenkomstig die vermelde skaal en die bydraes deur so iemand betaal ten opsigte van enige tydperk tussen bedoelde datum en die datum waarop hy kies om onder die bepalinge van hierdie Deel te val, tensy die Tesourie anders gelas, afgetrek word van die volgende bedrag van pensioengewende verdienste wat aan so iemand uitbetaal word: Met dien verstande verder dat enige bydraes met enige rente wat onmiddellik voor die datum vanaf welke hy aldus bydra deur so iemand verskuldig mog wees, betaal word asof hierdie Wet nie aangeneem was nie.

Bydraes deur persone wat kragtens artikel 4 gekies het om nuwe lede te wees.

12. Elke amptenaar moet, behoudens die bepalinge van artikels *vyf, dertien, veertien* en *sestien*, ooreenkomstig die volgende skaal tot die fonds bydra:

Bydraes deur nuwe lede wat nie kragtens artikel 4 gekies het om nuwe lede te wees nie.

| Leeftyd laaste verjaarsdag by aanvang van pensioengewende diens. | Percentage van pensioengewende verdienste. |
|--|--|
| Tot by 21 | 5½ |
| 22 tot 26 | 6 |
| 27 tot 30 | 6½ |
| 31 tot 34 | 7 |
| 34 tot 38 | 7½ |
| 39 en ouer | 8 |

13. (1) Iemand wat op proef aangestel is of tydelik in diens geneem is in 'n betrekking in 'n afdeling van die staatsdiens en wat in aanmerking kom vir permanente aanstelling in daardie betrekking kry, met inagneming van die bepalinge van artikel *sestien*, die keuse om voorlopig by te dra ten opsigte van sy proef- of tydelike diens. Dié keuse moet skriftelik gedoen word binne een maand vanaf die datum waarop so iemand deur die hoof van sy departement aangesê word om dit te doen. As hy kies om by te dra, moet die bydraes gemaak word vanaf die datum van bedoelde aanstelling of indiensneming en die volle bedrag van die bydraes vanaf daardie datum word, tensy die Tesourie anders gelas, afgetrek van die volgende bedrag van pensioengewende verdienste wat aan hom uitbetaal word. Indien hy kies om nie by te dra nie of versuim om sy keuse binne die voorgeskrewe tydperk te doen, word hy nie op 'n later datum toegelaat om ten opsigte van daardie proef- of tydelike diens by te dra nie:

Persone op proef aangestel of tydelik in diens geneem.

Met dien verstande dat indien so iemand oorgeplaas word uit pensioengewende diens onder 'n regering in artikel *twee-en-veertig* bedoel, of onder 'n administrasie, of uit sodanige diens in 'n inrigting vir hoër onderwys, en op proef aangestel word in 'n betrekking in die staatsdiens, hy nietaenstaande die aanstelling op proef is, tot die fonds moet bydra en die bydraes deur hom betaal nie as voorlopig beskou word nie.

(2) Die bepalinge van hierdie artikel is *mutatis mutandis* van toepassing ten aansien van iemand wat onmiddellik vóór die datum van die inwerkingtreding van hierdie Wet in diens is onder die omstandighede in sub-artikel (2) van

the Public Service Act, and who has not been given the option of contributing in respect of his temporary or probationary service, or who has been given such option and exercises it upon or after the said date.

Members of the services.

14. (1) Every person, other than a commissioned officer, who is appointed to a post in the services shall, subject to the provisions of section *sixteen* contribute to the fund from the first day after the completion of the first three years of his employment in the services and may at any time before the expiry of the said three years, elect in writing to contribute provisionally in respect thereof.

(2) Any such person who has made no such election before the expiry of the said three years shall be given a further option of contributing in respect of that period, and shall exercise such option in writing within one month from the date upon which he is called upon to do so.

(3) The provisions of this section shall *mutatis mutandis* apply in respect of any person referred to in sub-section (3) of section *forty-six* of the Public Service Act whose first three years of employment expires on or after the date of commencement of this Act and who has not prior to the said date elected to contribute in respect of the said three years.

Option to contribute in respect of past continuous employment on removal of disability.

15. (1) Subject to the provisions of sub-section (2), any person who becomes a new member on removal of a disability referred to in section *sixteen* shall be given the option of contributing in respect of any period of his past continuous employment approved by the Treasury, and shall exercise such option in writing within one month from the date upon which he is called upon to do so.

(2) For the purposes of sub-section (1) continuous employment shall not include any period during which the provisions of paragraph (a), (c), (e) or (f) of section *sixteen* of this Act, or of paragraph (a), (c), (e) or (f) of sub-section (4) of section *twenty-six* of the Public Service Act applied in respect of such person.

Disqualifications to be a contributor.

16. No person shall be allowed to contribute to the fund—

- (a) while under the age of sixteen years ;
- (b) if his age on appointment is over fifty years, unless he has had continuous employment from a date prior to the date upon which he attained that age and is permitted and agrees to contribute in respect of such employment ;
- (c) if he receives pensionable emoluments at a rate of less than ninety pounds per annum ;
- (d) if he has been engaged for the completion or performance of specific work ;
- (e) if remunerated solely by fees or allowances ;
- (f) if his whole time is not at the disposal of the Government ;
- (g) whilst employed for a fixed number of months or years unless it has, with the approval of the Treasury, been specifically provided in his contract of employment that he may so contribute ;
- (h) whilst employed temporarily, unless he is a person referred to in section *thirteen* ;
- (j) if by the terms of his appointment he is not subject to the laws regulating the public service ; or
- (k) whilst employed in a post which is not a post in one of the divisions of the public service.

Certain officers referred to in section 26 (4) and (5) of Act No. 27 of 1923 may become new members.

17. (1) An officer who—

- (a) in terms of paragraph (b) of sub-section (4) of section *twenty-six* of the Public Service Act, could not contribute to an old fund and has had continuous Government employment both before and after he reached the age of fifty years ; or
- (b) in terms of sub-section (5) of the said section could be permitted to contribute to an old fund but did not so contribute and has had continuous Government employment,

shall be permitted, upon written application made within six months after the commencement of this Act, to contribute to the fund as from the fixed date in accordance with the scale set forth in section *twelve*.

(2) Any such officer who does so contribute shall, subject to the approval of the Treasury, contribute also in respect of his continuous employment prior to the fixed date.

(3) For the purposes of this section continuous employment shall not include any period during which the provisions

artikel *ses-en-twintig* van die „Staatsdienst Wet” beskryf, en wat nie die keuse gekry het om ten opsigte van sy tydelike of proefdiens by te dra nie, of wat so ’n keuse gekry het en sy keuse op of na daardie datum doen.

14. (1) Iedere persoon behalwe ’n offisier met kommissie-rang wat aangestel word in ’n betrekking in die dienste, moet, behoudens die bepalings van artikel *sestien*, vanaf die eerste dag na voltooiing van die eerste drie jaar van sy diens in die dienste, tot die fonds bydra, en kan te eniger tyd voor verloop van daardie drie jaar skriftelik kies om voorlopig ten opsigte daarvan by te dra.

Lede van die dienste.

(2) So ’n persoon wat nie voor verloop van die drie jaar so ’n keuse gedoen het nie, kry ’n verdere keuse om by te dra ten opsigte van daardie tydperk, en moet daardie keuse skriftelik doen binne een maand vanaf die datum waarop hy aangesê word om dit te doen.

(3) Die bepalings van hierdie artikel is *mutatis mutandis* van toepassing ten aansien van iemand in sub-artikel (3) van artikel *ses-en-veertig* van die „Staatsdienst Wet” bedoel wie se eerste drie jaar diens op of na die datum van die inwerking-treding van hierdie Wet verstryk en wat nie voor daardie datum gekies het om ten opsigte van daardie drie jaar by te dra nie.

15. (1) Iemand wat by verwydering van ’n diskwalifikasie in artikel *sestien* bedoel ’n nuwe lid word, kry, met inagneming van die bepalings van sub-artikel (2), die keuse om by te dra ten opsigte van enige tydperk van sy vorige onafgebroke diens deur die Tesourie goedgekeur, en moet daardie keuse skriftelik doen binne een maand vanaf die datum waarop hy aangesê word om dit te doen.

Keuse om by verwydering van diskwalifikasie by te dra ten opsigte van vorige onafgebroke diens.

(2) Volgens die betekenis van sub-artikel (1) omvat onafgebroke diens nie ’n tydperk gedurende welke die bepalings van paragraaf (a), (c), (e) of (f) van artikel *sestien* van hierdie Wet, of van paragraaf (a), (c), (e) of (f) van sub-artikel (4) van artikel *ses-en-twintig* van die „Staatsdienst Wet” ten aansien van so iemand van toepassing was nie.

16. Niemand word toegelaat om tot die fonds by te dra

Diskwalifikasies om ’n bydraer te wees.

- nie—
- (a) terwyl hy onder die leeftyd van *sestien* jaar is;
 - (b) indien sy leeftyd by aanstelling oor vyftig jaar is, tensy hy onafgebroke diens gehad het vanaf ’n datum voor die datum waarop hy daardie leeftyd bereik het en toegelaat word en instem om by te dra ten opsigte van daardie diens;
 - (c) indien hy pensioengewende verdienste trek volgens ’n skaal van minder as negentig pond per jaar;
 - (d) indien hy in diens geneem is vir die voltooiing of verrigting van bepaalde werk;
 - (e) indien hy uitsluitend met fooie of toelaes betaal word;
 - (f) indien al sy tyd nie ter beskikking van die regering staan nie;
 - (g) terwyl hy in diens is vir ’n bepaalde aantal maande of jare, tensy met goedkeuring van die Tesourie in sy dienskontrak uitdruklik bepaal is dat hy aldus kan bydra;
 - (h) terwyl hy tydelik in diens is, tensy hy iemand is in artikel *dertien* bedoel;
 - (j) indien hy volgens die voorwaardes van sy aanstelling nie val onder die wette wat die staatsdiens reël nie; of
 - (k) terwyl hy in diens is in ’n betrekking wat nie ’n betrekking in ’n afdeling van die Staatsdiens is nie.

17. (1) ’n Amptenaar wat—

Sekere amptenare in artikels 26 (4) en (5) van Wet No. 27 van 1923 bedoel kan nuwe lede word.

- (a) volgens paragraaf (b) van sub-artikel (4) van artikel *ses-en-twintig* van die „Staatsdienst Wet” nie tot ’n ou fonds kon bydra nie en onafgebroke regeringsdiens gehad het, sowel voordat as nadat hy die leeftyd van vyftig jaar bereik het, of
- (b) volgens sub-artikel (5) van daardie artikel toegelaat kon word om tot ’n ou fonds by te dra maar nie aldus bygedra het nie en onafgebroke regeringsdiens gehad het.

word op skriftelike aansoek binne ses maande na die inwerking-treding van hierdie Wet gedoen, toegelaat om vanaf die vasgestelde datum ooreenkomstig die skaal in artikel *twaalf* uiteengesit, tot die fonds by te dra.

(2) So ’n amptenaar wat aldus bydra moet, as die Tesourie dit goedkeur, ook ten opsigte van sy onafgebroke diens voor die vasgestelde datum bydra.

(3) Volgens die betekenis van hierdie artikel omvat onafgebroke diens nie ’n tydperk gedurende welke die bepalings

of paragraph (a), (c), (e) or (f) of sub-section (4) of section *twenty-six* of the Public Service Act applied in respect of such officer.

Membership of persons appointed under section 5 (2) of Act No. 3 of 1911.

18. Notwithstanding anything to the contrary contained in sub-section (2) of section *five* of the High Commissioner's Act, 1911—

- (a) any person appointed on or after the fixed date under the provisions of that sub-section who, in the opinion of the Commission would have been liable to contribute to the fund if he had been employed in the public service in the Union, shall contribute to the fund in accordance with the scale set forth in section *twelve* from the date of his appointment or the later date on which, in the opinion of the Commission, he would have become so liable had he been so employed;
- (b) any person appointed prior to the fixed date under the provisions of that sub-section who, in the opinion of the Commission, would have been so liable had he been so employed, may elect within six months from the commencement of this Act or within one month from the date on which he is informed by the head of his department that he may contribute to the fund, whichever is the later date, to contribute to the fund in accordance with the said scale as from the fixed date. Any person who has so elected to contribute shall be given the option of contributing, with the approval of the Treasury, also in respect of any period of his continuous employment prior to the fixed date, and shall exercise such option in writing within one month from the date upon which he is called upon to do so.

Ages for retirement.

19. (1) A new member shall have the right to retire on pension on attaining the pensionable age. Such a member shall be retired on pension on reaching the said age, unless the Commission recommends that it is in the public interest to retain him in his office or post beyond that age, and in that event he may be retained from time to time for a further period which shall not, except with the approval of both Houses of Parliament, exceed five years.

(2) A new member other than a member of the services who has reached, in the case of a male member, the age of fifty-five years, and in the case of a female member, the age of fifty years, may, subject in every case to the recommendation of the Commission, be retired on pension.

(3) A new member who is a member of the permanent defence force and who has attained the age of forty-five years may be retired on pension.

Annuity and gratuity after ten years' pensionable service.

20. (1) A new member who has had not less than ten years' pensionable service shall, subject to the provisions of this Part, be entitled, upon retirement or discharge, to payment of—

- (a) an annuity, which shall be based on the annual average of his pensionable emoluments for the last seven years of his pensionable service, and which shall be calculated at the rate of one-eightieth of such average for each year of pensionable service not exceeding forty years; and
- (b) a gratuity which shall be based upon the said average and which shall—
 - (i) if such member is discharged on account of ill-health occasioned without his own default, be calculated, in the case of a male, at the rate of 4.5 per cent., and in the case of a female, at the rate of 5.7 per cent. of the said average in respect of each year of pensionable service not exceeding forty years; and
 - (ii) if such member retires or is retired in terms of section *nineteen*, or is discharged for a reason mentioned in paragraph (c), (d) or (e) of sub-section (5) of section *twenty-one*, or under sub-section (3) of section *nineteen* of the Public Service Act, be calculated at a percentage of the said average in respect of each year of pensionable service not exceeding forty years, according to the following scale:

van paragraaf (a), (c), (e) of (f) van sub-artikel (4) van artikel *ses-en-twintig* van die „Staatsdienst Wet” ten opsigte van bedoelde amptenaar van toepassing was nie.

18. Nieteenstaande enige andersluidende bepaling in sub-artikel (2) van artikel *vyf* van die „Hoge Kommissaris Wet, 1911”, vervat—

Lidmaatskap van persone kragtens artikel 5 (2) van Wet No. 3 van 1911 aangestel.

(a) moet enig iemand kragtens die bepalings van daardie sub-artikel op of na die vasgestelde datum aangestel, wat na die mening van die Kommissie onder verpligting sou gewees het om tot die fonds by te dra as hy in die Unie in die staatsdiens in diens was, vanaf die datum van sy aanstelling of die latere datum waarop, na die mening van die Kommissie, hy aldus onder verpligting sou gekom het as hy aldus in diens was, ooreenkomstig die skaal in artikel *twalf* uiteengesit, tot die fonds bydra;

(b) kan enig iemand kragtens die bepalings van daardie sub-artikel voor die vasgestelde datum aangestel, wat na die mening van die Kommissie aldus onder verpligting sou gewees het as hy aldus in diens was, binne ses maande vanaf die inwerkingtreding van hierdie Wet of binne een maand vanaf die datum waarop hy deur die hoof van sy departement meegeedeel word dat hy tot die fonds kan bydra, na gelang die een of die ander datum die laaste is, kies om vanaf die vasgestelde datum ooreenkomstig die vermelde skaal tot die fonds by te dra. Iemand wat aldus gekies het om by te dra kry die keuse om met goedkeuring van die Tesourie ook ten opsigte van enige tydperk van sy onafgebroke diens voor die vasgestelde datum by te dra, en moet die keuse skriftelik doen binne een maand vanaf die datum waarop hy aangese word om dit te doen.

19. (1) 'n Nuwe lid het die reg om met pensioen af te tree wanneer hy die pensioenleeftyd bereik. So 'n lid word afgedank met pensioen wanneer hy daardie leeftyd bereik, tensy die Kommissie aanbeveel dat dit in die openbare belang is om hom bo daardie leeftyd in sy betrekking of pos aan te hou en in daardie geval kan hy van tyd tot tyd aangehou word vir 'n verdere tydperk wat, behalwe met die goedkeuring van albei Huisse van die Parlement, vyf jaar nie te bowe gaan nie.

Leeftyd vir uitdienstreding.

(2) 'n Nuwe lid (behalwe 'n lid van die dienste) wat, in die geval van 'n manlike lid, die leeftyd van vyf-en-vyftig jaar, en in die geval van 'n vroulike lid, die leeftyd van vyftig jaar bereik het, kan, onderhewig in elke geval aan die aanbeveling van die Kommissie, met pensioen afgedank word.

(3) 'n Nuwe lid wat 'n lid is van die staande verdedigingsmag en wat die leeftyd van vyf-en-veertig jaar bereik het kan met pensioen afgedank word.

20. (1) 'n Nuwe lid wat nie minder as tien jaar pensioengewende diens gehad het nie is, behoudens die bepalings van hierdie Deel, by uitdienstreding of ontslag geregtig op betaling van—

Jaargeld en gratifikasie na tien jaar pensioengewende diens.

(a) 'n jaargeld, wat gebaseer word op die jaarlikse gemiddelde van sy pensioengewende verdienste gedurende die laaste sewe jaar van sy pensioengewende diens, en wat bereken word volgens die skaal van een-tagtigste van bedoelde gemiddelde vir elke jaar pensioengewende diens veertig jaar nie te bowe gaande nie; en

(b) 'n gratifikasie wat gebaseer word op bedoelde gemiddelde en wat—

(i) indien so'n lid ontslaan word op grond van slegte gesondheid buite sy eie toedoen veroorsaak, bereken word, by 'n manspersoon volgens die skaal van 4.5 persent, en by 'n vrouspersoon volgens die skaal van 5.7 persent van bedoelde gemiddelde ten opsigte van elke jaar pensioengewende diens veertig jaar nie te bowe gaande nie; en

(ii) indien so'n lid ooreenkomstig artikel *negentien* uit diens tree of afgedank word, of om 'n rede in paragraaf (c), (d) of (e) van sub-artikel (5) van artikel *een-en-twintig* vermeld of kragtens sub-artikel (3) van artikel *negentien* van die „Staatsdienst Wet” ontslaan word, bereken word volgens 'n persentasie van bedoelde gemiddelde ten opsigte van elke jaar pensioengewende diens veertig jaar nie te bowe gaande nie, ooreenkomstig die volgende skaal:

| MALES. | | | FEMALES. | | |
|--|--|----|--|--|----|
| Nearest age at date of retirement or discharge : | Percentage of annual average of pensionable emoluments : | | Nearest age at date of retirement or discharge : | Percentage of annual average of pensionable emoluments : | |
| Up to 30 | 7.40 | .. | Up to 30 | 7.61 | .. |
| 31 | 7.33 | .. | 31 | 7.56 | .. |
| 32 | 7.26 | .. | 32 | 7.50 | .. |
| 33 | 7.19 | .. | 33 | 7.44 | .. |
| 34 | 7.12 | .. | 34 | 7.38 | .. |
| 35 | 7.05 | .. | 35 | 7.32 | .. |
| 36 | 6.98 | .. | 36 | 7.25 | .. |
| 37 | 6.90 | .. | 37 | 7.18 | .. |
| 38 | 6.82 | .. | 38 | 7.11 | .. |
| 39 | 6.74 | .. | 39 | 7.04 | .. |
| 40 | 6.66 | .. | 40 | 6.97 | .. |
| 41 | 6.57 | .. | 41 | 6.90 | .. |
| 42 | 6.48 | .. | 42 | 6.82 | .. |
| 43 | 6.39 | .. | 43 | 6.74 | .. |
| 44 | 6.30 | .. | 44 | 6.66 | .. |
| 45 | 6.20 | .. | 45 | 6.58 | .. |
| 46 | 6.10 | .. | 46 | 6.50 | .. |
| 47 | 5.99 | .. | 47 | 6.42 | .. |
| 48 | 5.88 | .. | 48 | 6.33 | .. |
| 49 | 5.77 | .. | 49 | 6.24 | .. |
| 50 | 5.65 | .. | 50 | 6.15 | .. |
| 51 | 5.53 | .. | 51 | 6.06 | .. |
| 52 | 5.42 | .. | 52 | 5.97 | .. |
| 53 | 5.30 | .. | 53 | 5.88 | .. |
| 54 | 5.19 | .. | 54 | 5.79 | .. |
| 55 | 5.07 | .. | 55 or over | 5.70 | .. |
| 56 | 4.96 | .. | | | |
| 57 | 4.84 | .. | | | |
| 58 | 4.73 | .. | | | |
| 59 | 4.61 | .. | | | |
| 60 or over | 4.50 | .. | | | |

(2) If a new member is retired or discharged before he has reached the pensionable age all annuity payments in respect of the period before he has reached that age shall, except in the case of a member who has been retired on account of ill-health, be made out of revenue, and the gratuity payment partly out of revenue and partly out of the fund in accordance with tables recommended by an actuary and approved by the Treasury.

Special benefits and benefits other than annuities.

21. (1) If a new member is discharged—

(a) owing to the abolition of his office or to any reduction in or re-organization or re-adjustment of departments, divisions, branches or offices; or

(b) in order to promote efficiency or economy in the department or office to which he belongs,

there shall be added to his pensionable service, for the purpose of calculating any annuity and gratuity to which he is entitled under section *twenty*, either one-third of the period of the said service or the period, not exceeding five years, by which his pensionable age exceeds his age at his discharge, whichever is the lesser period: Provided that the amount by which such annuity is increased by reason of the period so added, shall be paid out of revenue.

(2) A new member other than a member of the services who retires voluntarily from the public service before attaining the pensionable age shall receive an amount equal to his own contributions, together with ten per cent. of the said amount in respect of each complete year of his pensionable service in excess of thirteen years, and he shall further be refunded his excess contributions.

(3) (a) A new member other than a member of the services who is discharged on account of misconduct, or who resigns or is called upon to resign in order to avoid such discharge, shall be refunded his own contributions and his excess contributions.

| MANSPERSONE. | | VROUSPERSONE. | |
|--|---|--|---|
| Naaste leeftyd op datum van uitdiens-treding of ontslag. | Persentasie van jaar-likse ge-middelde van pen-sioenge-wende ver-dienste. | Naaste leeftyd op datum van uitdiens-treding of ontslag. | Persentasie van jaar-likse ge-middelde van pen-sioenge-wende ver-dienste. |
| Tot by 30 | 7.40 | Tot by 30 | 7.61 |
| 31 | 7.33 | 31 | 7.56 |
| 32 | 7.26 | 32 | 7.50 |
| 33 | 7.19 | 33 | 7.44 |
| 34 | 7.12 | 34 | 7.38 |
| 35 | 7.05 | 35 | 7.32 |
| 36 | 6.98 | 36 | 7.25 |
| 37 | 6.90 | 37 | 7.18 |
| 38 | 6.82 | 38 | 7.11 |
| 39 | 6.74 | 39 | 7.04 |
| 40 | 6.66 | 40 | 6.97 |
| 41 | 6.57 | 41 | 6.90 |
| 42 | 6.48 | 42 | 6.82 |
| 43 | 6.39 | 43 | 6.74 |
| 44 | 6.30 | 44 | 6.66 |
| 45 | 6.20 | 45 | 6.58 |
| 46 | 6.10 | 46 | 6.50 |
| 47 | 5.99 | 47 | 6.42 |
| 48 | 5.88 | 48 | 6.33 |
| 49 | 5.77 | 49 | 6.24 |
| 50 | 5.65 | 50 | 6.15 |
| 51 | 5.53 | 51 | 6.06 |
| 52 | 5.42 | 52 | 5.97 |
| 53 | 5.30 | 53 | 5.88 |
| 54 | 5.19 | 54 | 5.79 |
| 55 | 5.07 | 55 of ouer | 5.70 |
| 56 | 4.96 | | |
| 57 | 4.84 | | |
| 58 | 4.73 | | |
| 59 | 4.61 | | |
| 60 of ouer | 4.50 | | |

(2) Indien 'n nuwe lid afgedank of ontslaan word voordat hy die pensioenleeftyd bereik het, word, behalwe in die geval van 'n lid wat weens slegte gesondheid afgedank is, alle jaargelde ten opsigte van die tydperk voor hy daardie leeftyd bereik het, uit inkomste betaal, en die gratifikasie gedeeltelik uit inkomste en gedeeltelik uit die fonds, ooreenkomstig tafels deur 'n aktuaris aanbeveel en deur die Tesourie goedgekeur.

21. Indien 'n nuwe lid ontslaan word—

Spesiale voordele en ander voordele as jaargelde.

- (a) weens die opheffing van sy betrekking of 'n vermindering van personeel, reorganisasie of herreëling van departemente, afdelings, dienstakke of kantore, of
- (b) ten einde bekwaamheid of besuiniging te bevorder in die departement of kantoor waartoe hy behoort,

word, by die berekening van 'n jaargeld en gratifikasie waarop hy kragtens artikel *twintig* geregtig is, by sy pensioengewende diens bygevoeg of een-derde van die tydperk van daardie diens of die tydperk, vyf jaar nie te bowe gaande nie, waarmee sy pensioenleeftyd sy leeftyd by sy ontslag te bowe gaan, na gelang die een of die ander tydperk die kortste is: Met dien verstande dat die bedrag waarmee bedoelde jaargeld van weë die aldus bygevoegde tydperk verhoog word, uit inkomste betaal word.

(2) 'n Nuwe lid (behalwe 'n lid van die dienste) wat vrywillig uit die staatsdiens tree voordat hy die pensioenleeftyd bereik het, ontvang 'n bedrag gelyk aan sy eie bydraes, benewens tien persent van daardie bedrag ten opsigte van elke voltooide jaar van sy pensioengewende diens bo dertien jaar, en word verder sy meerdere bydraes terugbetaal.

(3) (a) 'n Nuwe lid (behalwe 'n lid van die dienste) wat weens wangedrag ontslaan word, of wat bedank of aangesê word om te bedank ten einde sodanige ontslag te vermy, word sy eie bydraes en sy meerdere bydraes terugbetaal.

(b) A new member who is a member of the services shall be refunded his own contributions and his excess contributions, if he—

- (i) retires voluntarily before attaining the pensionable age;
- (ii) is discharged on account of misconduct or resigns or is called upon to resign in order to avoid such discharge; or
- (iii) is discharged in any other circumstances not specifically mentioned in this Part:

Provided that a new member who is discharged on account of misconduct or who is called upon to resign in order to avoid such discharge, and who, prior to the act of misconduct had rendered not less than twenty years of satisfactory pensionable service may be granted such annuity as the Treasury, on the recommendation of the Commission, may determine: Provided further that if a new member is so discharged or resigns or is called upon to resign as aforesaid, the Treasury may deduct from any sum payable under this sub-section the amount of any loss certified by the Controller and Auditor-General or Provincial Auditor, as the case may be, to have been sustained by the Government through theft, fraud, negligence, or any dishonesty on the part of such member.

(c) All payments of the annuity referred to in this sub-section, which are made before such member has attained the pensionable age, shall be made out of revenue.

(4) A new member who is retired on account of ill-health not occasioned without his own default shall be entitled to the benefit referred to in sub-section (2) as if he had retired voluntarily: Provided that a new member who is so retired and who has rendered not less than twenty years of satisfactory pensionable service, may be granted such annuity as the Treasury, on the recommendation of the Commission, may determine.

(5) A new member who, before he has had ten years' pensionable service, retires or is retired or discharged—

- (a) in terms of section *nineteen*; or
- (b) on account of ill-health occasioned without his own default; or
- (c) owing to the abolition of his office or to any reduction in or re-organization or re-adjustment of departments, divisions, branches or offices; or
- (d) in order to promote efficiency or economy in the department or office to which he belongs; or
- (e) on account of being unfitted for or incapable of performing efficiently the duties of his office or post; or
- (f) under sub-section (3) of section *nineteen* of the Public Service Act,

shall be paid the amount of the monthly average of his pensionable emoluments for the last seven years of his pensionable service or for the whole period of such service, whichever is the lesser period, in respect of each year of his pensionable service: Provided that if such member is so discharged for a reason mentioned in paragraph (c) or (d) before he has attained an age at which he may retire or be retired in terms of section *nineteen*, he shall in addition to the said amount be entitled to a further amount equal to one-third thereof, which further amount shall be paid out of revenue.

(6) A new member who is a female, and who is discharged on her marriage, or who retires voluntarily in contemplation of marriage and marries within three months thereafter, shall receive, according to whether the one or the other is the greater, either—

- (a) the amount of her own contributions and excess contributions; or
- (b) a percentage of the amount of the monthly average of her pensionable emoluments for the last seven years of her pensionable service or for the whole period of such service, whichever is the lesser period, in respect of each completed year of her pensionable service not exceeding forty years, calculated according to the following scale:

- (b) 'n Nuwe lid wat 'n lid van die dienste is word sy eie bydraes en sy meerdere bydraes terugbetaal indien hy—
- (i) vrywillig uit diens tree voordat hy die pensioenleeftyd bereik het;
 - (ii) weens wangedrag ontslaan word of bedank of aangesê word om te bedank ten einde sodanige ontslag te vermy; of
 - (iii) ontslaan word onder enige ander omstandighede nie uitdruklik in hierdie Deel vermeld nie:

Met dien verstande dat 'n nuwe lid wat ontslaan word weens wangedrag of wat aangesê word om te bedank teneinde sodanige ontslag te vermy, en wat voor die wangedrag nie minder as twintig jaar bevredigende pensioengewende diens verrig het nie, so 'n jaargeld toegeken mag word as wat die Tesourie, op aanbeveling van die Kommissie, mag bepaal: Met dien verstande verder dat indien 'n nuwe lid aldus ontslaan word of soos voormeld bedank of aangesê word om te bedank, die Tesourie van 'n bedrag kragtens hierdie sub-artikel betaalbaar, die bedrag van enige verlies kan aftrek wat deur die Kontroleur en Ouditeur-generaal of Provinsiale Ouditeur, na gelang van die geval, gesertifiseer word deur die regering gelyk te gewees het deur diefstal, bedrog, nalatigheid of oneerlikheid aan die kant van so 'n lid.

- (c) Alle jaargelde in hierdie sub-artikel bedoel wat uitbetaal word voordat so 'n lid die pensioenleeftyd bereik het, word uit inkomste betaal.

(4) 'n Nuwe lid wat afgedank word weens slegte gesondheid nie sonder sy eie toedoen veroorsaak nie is geregtig op die in sub-artikel (2) bedoelde voordeel asof hy vrywillig uit diens getree het: Met dien verstande dat 'n nuwe lid wat aldus afgedank word en wat nie minder as twintig jaar bevredigende pensioengewende diens verrig het nie, so 'n jaargeld toegeken mag word as wat die Tesourie, op aanbeveling van die Kommissie, mag bepaal.

(5) Aan 'n nuwe lid wat, voordat hy tien jaar pensioengewende diens gehad het, aftree of afgedank of ontslaan word—

- (a) ooreenkomstig artikel *negentien*; of
- (b) weens slegte gesondheid sonder sy eie toedoen veroorsaak; of
- (c) weens die opheffing van sy betrekking of 'n vermindering van personeel, reorganisasie of herreëling van departemente, afdelings, dienstakke of kantore; of
- (d) teneinde bekwaamheid of besuiniging te bevorder in die departement of kantoor waartoe hy behoort; of
- (e) omdat hy ongeskik is vir sy betrekking of pos of nie in staat is om sy werksaamhede daarin op bekwame wyse te verrig nie; of
- (f) kragtens sub-artikel (3) van artikel *negentien* van die „Staatsdiens Wet”;

word die bedrag van die maandelikse gemiddelde van sy pensioengewende verdienste gedurende die laaste sewe jaar van sy pensioengewende diens of gedurende die hele tydperk van daardie diens, na gelang die een of die ander tydperk die kortste is, uitbetaal, ten opsigte van elke jaar van sy pensioengewende diens: Met dien verstande dat so 'n lid indien hy aldus ontslaan word om 'n rede in paragraaf (c) of (d) vermeld, voordat hy 'n leeftyd bereik het waarop hy ooreenkomstig artikel *negentien* kan aftree of afgedank kan word, benewens die vermelde bedrag geregtig is op 'n verdere bedrag gelyk aan een-derde daarvan, welke verdere bedrag uit inkomste betaal word.

(6) 'n Nuwe lid wat 'n vrouspersoon is, wat by haar huwelik ontslaan word of wat met die voorneme om te trou vrywillig uit diens tree en binne drie maande daarna trou, ontvang, na gelang die één of die ander die meeste is, of—

- (a) die bedrag van haar eie bydraes en meerdere bydraes; of
- (b) 'n persentasie van die bedrag van die maandelikse gemiddelde van haar pensioengewende verdienste gedurende die laaste sewe jaar van haar pensioengewende diens of gedurende die hele tydperk van daardie diens, na gelang die een of die ander die kortste is, ten opsigte van elke voltooide jaar van haar pensioengewende diens veertig jaar nie te bowe gaande nie, bereken ooreenkomstig die volgende skaal:

| Number of completed years of pensionable service. | | Percentage of monthly average of pensionable emoluments. | |
|---|-------------|--|------------------|
| Up to | 2 | .. | 50 |
| | 3 | .. | 56 $\frac{1}{4}$ |
| | 4 | .. | 62 $\frac{1}{2}$ |
| | 5 | .. | 68 $\frac{3}{4}$ |
| | 6 | .. | 75 |
| | 7 | .. | 81 $\frac{1}{4}$ |
| | 8 | .. | 87 $\frac{1}{2}$ |
| | 9 | .. | 93 $\frac{3}{4}$ |
| | 10 and over | .. | 100 |

(7) If a new member who is contributing to the fund provisionally in terms of section *thirteen* or *fourteen*, retires or is retired or discharged before his appointment is confirmed or before being permanently appointed or before the expiry of the first three years of his employment, as the case may be, his contributions shall, subject *mutatis mutandis* to the provisions of the second proviso to paragraphs (a) and (b) of sub-section (3), be refunded to him, and the amount paid from revenue in respect of such member shall be repaid to revenue.

Gratuity on death before, or soon after, retirement.

22. (1) If a new member dies before his retirement from the public service, there shall, subject to the provisions of sub-section (3), be paid to or for the benefit of such of his dependants as the Treasury may determine, a gratuity calculated at the rate of the monthly average of his pensionable emoluments for the last seven years of his pensionable service or for the whole period of such service, whichever is the lesser period, in respect of each year of his pensionable service not exceeding forty years.

(2) If a new member who has retired or been retired or discharged from the public service on an annuity dies within five years after the date of his retirement or discharge, there shall, subject to the provisions of sub-section (3), be paid to or for the benefit of such of his dependants as the Treasury may determine an amount equal to the aggregate amount of the annuity which would have been paid to such member from the date of his death until the expiry of the said five years, had he not died.

(3) The amounts referred to in sub-sections (1) and (2) shall be allocated amongst the said dependants in such manner as the Treasury may determine and the Treasury may, in the case of dependants other than the widow of the deceased member, reduce any such amount to an extent which, having regard to the circumstances of such dependants, appears to it to be reasonable.

PART C.

OLD AND NEW MEMBERS.

Pensionable service.

23. (1) The pensionable service with reference to which any pension is to be calculated, shall be continuous.

(2) Subject to the provisions of sub-section (3), pensionable service shall include the time spent—

- (a) on actual duty;
- (b) on leave of absence;
- (c) under suspension, if followed by re-instatement in the same or another office or post,

and shall not be regarded as interrupted by leave of absence without pay.

(3) No period of employment, leave or suspension of a member shall be included in his pensionable service unless he has contributed to the fund or an old fund in respect of that period, or unless his contributions in respect of that period are deducted from the pension in terms of sub-section (3) of section *twenty-four*.

(4) The period of pensionable service shall be calculated by the year and month, and fractions of a month shall be disregarded.

Collection, etc., of arrear and other contributions.

24. (1) Contributions by a member to the fund shall be made by deductions from his pensionable emoluments at the end of each month or at such other times as the Treasury may determine.

(2) Any arrear contributions which a member is required or has elected to make, shall, except where otherwise provided in this Act, be paid in instalments, and the deductions to be made in respect thereof from a members' pensionable emolu-

| Aantal voltooide jare pensioengewende diens. | Persentasie van maandelikse gemiddelde van pensioengewende verdienste. |
|--|--|
| Tot by 2 | 50 |
| 3 | 56 $\frac{1}{4}$ |
| 4 | 62 $\frac{1}{2}$ |
| 5 | 68 $\frac{3}{4}$ |
| 6 | 75 |
| 7 | 81 $\frac{1}{4}$ |
| 8 | 87 $\frac{1}{2}$ |
| 9 | 93 $\frac{3}{4}$ |
| 10 en meer | 100 |

(7) Indien 'n nuwe lid wat ingevolge artikel *dertien* of *veertien* voorlopig tot die fonds bydra, voordat sy aanstelling bevestig word of voordat hy vas aangestel word of voor verloop van die eerste drie jaar van sy diens, na gelang van die geval, aftree of afgedank of ontslaan word, word sy bydraes met inagneming *mutatis mutandis* van die bepalings van die tweede voorbehoudsbepaling van paragrawe (a) en (b) van sub-artikel (3), aan hom terugbetaal, en die bedrag ten aansien van so 'n lid uit inkomste betaal, word in inkomste teruggestort.

22. (1) Indien 'n nuwe lid voor sy uittrede uit die staatsdiens te sterwe kom, word, met inagneming van die bepalings van sub-artikel (3), aan of ten bate van diegene van sy afhanklikes wat die Tesourie mag aanwys, 'n gratifikasie uitbetaal bereken volgens die skaal van die maandelikse gemiddelde van sy pensioengewende verdienste gedurende die laaste sewe jaar van sy pensioengewende diens of gedurende die hele tydperk van daardie diens, na gelang die een of die ander die kortste is, ten opsigte van elke jaar van sy pensioengewende diens veertig jaar nie te bowe gaande nie.

Gratifikasie by dood voor of kort na uitdienstreding.

(2) Indien 'n nuwe lid wat afgetree het of afgedank of ontslaan is uit die staatsdiens met 'n jaargeld, binne vyf jaar na die datum van sy uitdienstreding of ontslag te sterwe kom, word, met inagneming van die bepalings van sub-artikel (3), aan of ten bate van diegene van sy afhanklikes wat die Tesourie mag aanwys, 'n bedrag uitbetaal gelyk aan die totaalbedrag van die jaargeld wat aan so'n lid vanaf die datum van sy dood tot by die verstryking van bedoelde vyf jaar uitbetaal sou geword het as hy nie gesterf het nie.

(3) Die in sub-artikels (1) en (2) bedoelde bedrae word op sodanige wyse onder die vermelde afhanklikes toegewys as wat die Tesourie mag bepaal, en die Tesourie kan, in die geval van ander afhanklikes as die weduwee van die oorlede lid, enige sodanige bedrag verminder tot 'n mate wat, na die omstandighede van die afhanklikes in aanmerking te geneem het, hom redelik voorkom.

DEEL C.

OU EN NUWE LEDE.

23. (1) Die pensioengewende diens met betrekking tot welke 'n pensioen bereken moet word, moet onafgebroke wees.

(2) Pensioengewende diens omvat, behoudens die bepalings van sub-artikel (3), die tyd wat deurgebring is—

(a) op werklike diens;

(b) op verlof;

(c) onder skorsing, indien gevolg deur herstelling in dieselfde of 'n ander betrekking of pos,

en word nie geag onderbreek te word deur verlof sonder betaling nie.

(3) Geen tydperk van diens, verlof of skorsing van 'n lid word by sy pensioengewende diens gereken nie tensy hy ten opsigte van daardie tydperk tot die fonds of 'n ou fonds bygedra het, of tensy sy bydraes ten opsigte van daardie tydperk volgens sub-artikel (3) van artikel *vier-en-twintig* van die pensioen afgetrek word.

(4) Die tydperk van pensioengewende diens word by die jaar en maand bereken en breuke van 'n maand word buite rekening gelaat.

24. (1) Bydraes deur 'n lid tot die fonds word gemaak by wyse van aftrekkings van sy pensioengewende verdienste op die end van elke maand of op sulke ander tye as wat die Tesourie mag vasstel.

Insameling, ens. van agterstallige en ander bydraes.

(2) Agterstallige bydraes wat 'n lid moet maak of gekies het om te maak word, behoudens enige andersluidende bepaling in hierdie Wet, in paaiemente betaal, en die aftrekkings wat ten opsigte daarvan van 'n lid se pensioengewende verdienste

ments shall be calculated at the rate of two per cent. of those emoluments, or such higher rate as such member may desire.

(3) If a member who is paying arrear contributions by instalments, dies or retires, or is retired or discharged before the total amount of such contributions has been paid, the amount which remains unpaid shall, save as is provided in sections *twenty-nine* and *thirty*, be set off against the pension payable to him or his dependants from the fund, and such pension shall be calculated upon the whole period of pensionable service in respect of which he is required or has elected to contribute.

(4) (a) A member shall continue to contribute to the fund while on sick or other leave with full or less than full pay, and his contributions during such leave shall be based upon his full pensionable emoluments.

(b) A member may elect to contribute in respect of any period of sick or other leave without pay, and if he should elect so to contribute, his contributions shall be based upon his full pensionable emoluments.

(5) A member who has been suspended from his office and reinstated in that office or in another office or post shall, on such conditions as the Treasury may determine, contribute to the fund in respect of the period of suspension, and his contributions in respect of that period shall be based upon his full pensionable emoluments immediately before his suspension.

(6) If a member is remunerated at a daily or hourly rate of pay, his pensionable emoluments shall be assessed on the basis of the annual equivalent of such rate calculated to the nearest pound.

Members seconded to other services.

25. A member who is seconded to the service of any other Government or of the Land and Agricultural Bank of South Africa, or any board, institution or body established by law may, subject to the approval of the Treasury, continue while so seconded to make contributions to the fund: Provided that the contributions which would otherwise be made to the fund from revenue in respect of such member shall be made either by the said bank or the Government, board, institution or body to whose service such member has been seconded or by the member himself; Provided further that the contributions so continued to be made shall be based upon an amount, not less than the pensionable emoluments of such member immediately prior to the date upon which he was so seconded, to be determined by the Treasury, and the said amount shall, for the purposes of this Chapter, be deemed to be the pensionable emoluments of such member while he is so seconded.

Teachers and others transferred to the public service.

26. (1) Any teacher in the service of a provincial administration, the administration of the mandated territory, a department of education or an institution of higher education, and any officer in the service of any other institution or body who is subject to a law relating to pensions administered by any such administration or department, and who—

(a) is transferred from such service to a post in the public service, or is appointed directly from such service to such a post without any break in his service; and

(b) is less than fifty years of age at the date of such transfer or appointment or, if his age at that date is fifty years or more, has had pensionable service before he reached the age of fifty years and elects in terms of subsection (2) to reckon his past pensionable service as pensionable service under this Act,

shall, subject to the provisions of section *thirty-eight*, contribute to the fund in accordance with the scale set forth in section *twelve*.

(2) Any teacher or officer so transferred or appointed may elect in writing, within a period of three months from the date of such transfer or appointment, to reckon his past pensionable service, on such conditions as the Treasury may determine, as pensionable service under this Act; and if he elects so to reckon his past pensionable service the administration, department, institution or body, as the case may be, shall pay to the fund out of the appropriate fund or from its revenue, the aggregate of—

(a) twice the amount of all contributions paid by such teacher or officer;

(b) an amount equal to any arrear contributions due by the teacher or officer and unpaid at the date of such transfer or appointment; and

gemaak moet word, word bereken volgens die skaal van twee persent van daardie verdienste of so'n hoër skaal as wat so 'n lid mog verlang.

(3) Indien 'n lid wat agterstallige bydraes by wyse van paaiemente betaal, te sterwe kom of aftree, of afgedank of ontslaan word voordat die hele bedrag van die bydraes betaal is, word die nog onbetaalde bedrag, behoudens die bepaling van artikels *nege-en-twintig* en *dertig*, in skuldvergelyking gebring met die pensioen wat uit die fonds aan hom of sy afhanklikes betaalbaar is, en bedoelde pensioen word bereken op die hele tydperk van pensioengewende diens ten opsigte waarvan hy moet bydra of gekies het om by te dra.

(4) (a) 'n Lid gaan voort om tot die fonds by te dra onderwyl hy op siekte- of ander verlof met volle of minder as volle betaling is, en sy bydraes gedurende bedoelde verlof word op sy volle pensioengewende verdienste gebaseer.

(b) 'n Lid kan kies om by te dra ten opsigte van 'n tydperk van siekte- of ander verlof sonder betaling, en indien hy sou kies om aldus by te dra, word sy bydraes op sy volle pensioengewende verdienste gebaseer.

(5) 'n Lid wat in sy betrekking geskors is en in daardie betrekking of in 'n ander betrekking of pos herstel is moet, op die voorwaardes wat die Tesourie mag bepaal, ten opsigte van die tydperk van skorsing tot die fonds bydra, en sy bydraes ten opsigte van daardie tydperk word op sy volle pensioengewende verdienste onmiddellik voor sy skorsing gebaseer.

(6) Indien 'n lid by die dag of by die uur besoldig word, word sy pensioengewende verdienste vasgestel op die basis van die jaarlikse ekwivalent van bedoelde besoldiging bereken tot op die naaste pond.

25. 'n Lid wat tydelik oorgeplaas is na die diens van 'n ander regering of van die Land- en Landbou-bank van Suid-Afrika, of van 'n raad, inrigting of liggaam by wet ingestel, kan, indien die Tesourie dit goedkeur, onderwyl hy aldus oorgeplaas is, voortgaan om tot die fonds by te dra: Met dien verstande dat die bydraes wat anders uit inkomste ten opsigte van so'n lid tot die fonds gemaak sou word, gemaak word, of deur vermeldde bank of die regering, raad, inrigting of liggaam na wie se diens die lid oorgeplaas is, of deur die lid self: Met dien verstande verder dat die bydraes waarmee aldus voortgegaan word, gebaseer word op 'n bedrag, nie minder as die lid se pensioengewende verdienste onmiddellik voor die datum waarop hy aldus oorgeplaas is nie, wat deur die Tesourie vasgestel moet word, en daardie bedrag word, vir die doeleindes van hierdie Hoofstuk, geag die pensioengewende verdienste van so'n lid te wees onderwyl hy aldus oorgeplaas is.

Lede tydelik na ander dienste oorgeplaas.

26. (1) 'n Onderwyser in die diens van 'n provinsiale administrasie, die administrasie van die mandaatgebied, 'n departement van opvoeding of 'n inrigting vir hoër onderwys, en 'n beampte in die diens van 'n ander inrigting of liggaam, wat val onder 'n wet betreffende pensioene deur so'n administrasie of departement uitgevoer, en wat—

Onderwysers en andere na die staatsdiens verplaas.

(a) verplaas word van daardie diens na 'n pos in die staatsdiens, of sonder onderbreking van sy diens direk uit daardie diens in so'n pos aangestel word, en

(b) minder as vyftig jaar oud is op die datum van bedoelde verplasing of aanstelling of, as hy op daardie datum vyftig jaar of ouer is, pensioengewende diens gehad het voordat hy die leeftyd van vyftig jaar bereik het en ooreenkomstig sub-artikel (2) kies om sy vorige pensioengewende diens te reken as pensioengewende diens ingevolge hierdie Wet,

moet, behoudens die bepaling van artikel *agt-en-dertig*, ooreenkomstig die skaal in artikel *twaalf* uiteengesit, tot die fonds bydra.

(2) 'n Aldus verplaaste of aangestelde onderwyser of beampte kan binne 'n tydperk van drie maande vanaf die datum van die verplasing of aanstelling skriftelik kies om sy vorige pensioengewende diens op sodanige voorwaardes as die Tesourie mag bepaal, as pensioengewende diens ingevolge hierdie Wet te reken; en as hy kies om sy vorige pensioengewende diens aldus te reken, moet die administrasie, departement, inrigting of liggaam, na gelang van die geval, uit die aangewese fonds of uit sy inkomste in die fonds stort die totaal van—

(a) dubbel die bedrag van alle bydraes deur die onderwyser of beampte betaal;

(b) 'n bedrag gelyk aan enige agterstallige bydraes deur die onderwyser of beampte verskuldig en onbetaald op die datum van die verplasing of aanstelling; en

- (c) interest, annually compounded, calculated at the rate of five per cent. per annum on twice the amount of the contributions which became payable by the teacher or officer from the date of the commencement of his pensionable service up to the date of such transfer or appointment, and as if all such contributions had been paid upon the due dates ;

or if such teacher or officer did not make any contributions, such amount as may be determined by the Treasury :

Provided that—

- (i) the amount so paid to the fund in the case of any teacher or officer so transferred or appointed shall not be less than the amount of the said aggregate would be if such teacher or officer had, upon the due dates, paid contributions at the rate of four per cent. of his salary and pensionable allowances ;
- (ii) if the contributions paid by any such administration, department, institution or body exceed those of the teacher or officer, such administration, department, institution or body shall, in lieu of the amount referred to in paragraph (a), pay to the fund the amount of the contributions paid by it and by such teacher or officer, and the interest referred to in paragraph (c) shall be calculated upon the amount of the contributions which became payable by such administration, department, institution or body and by such teacher or officer, instead of upon twice the amount of the contributions which became payable by such teacher or officer ;
- (iii) if the teacher or officer was contributing to a provident fund or in terms of any other similar scheme the amount payable to the fund shall, instead of the amounts specified in paragraphs (a), (b) and (c), be the amount standing to the credit of the teacher or officer ;
- (iv) if, under the provisions regulating such provident fund or scheme, a policy of insurance formed part of the provision made for the teacher or officer, he shall have the option of having the policy transferred to him free of any charge or of surrendering the policy for cash, and in the latter event the amount of the surrender value of such policy shall be added to any such amount standing to his credit and be paid to the fund ;
- (v) if, under the said provisions, the teacher or officer is entitled to an annuity upon retirement, there shall be paid to the fund, in addition to any other payment, the capitalized value of such annuity at the date of such transfer or appointment, as computed by the Treasury ;
- (vi) if the amount paid to the fund is more or less than the amount which is required in respect of such teacher's or officer's past pensionable service for the purposes of the fund, the excess shall be dealt with or the deficit shall be made good in such manner as the Treasury may determine.

(3) If any such teacher or officer does not elect, in terms of sub-section (2), to reckon his past pensionable service as pensionable service under this Act, he may elect in writing within a period of three months from the date of his transfer or appointment either—

- (a) to be dealt with in accordance with the provisions applicable to the service in which he previously served, as if he had resigned voluntarily ; or
- (b) to be granted out of such appropriate fund or from the revenue of such administration, department, institution or other body, as the case may be, if for any reason he retires or is retired or discharged from the public service, the pension to which he would have been entitled at the date of such transfer or appointment in respect of his service under such administration, department, institution or body, had he at that date retired or been retired or discharged from the service of such administration, department, institution or body for the same reason : Provided that if such teacher or officer so retires or is so retired

- (c) rente, jaarliks saamgestel, bereken teen die koers van vyf persent per jaar op dubbel die bedrag van die bydraes wat deur die onderwyser of beampte betaalbaar geword het vanaf die aanvangsdatum van sy pensioengewende diens tot op die datum van die verplasing of aanstelling, en asof al die bedoelde bydraes op die vervaldatums betaal was;

of indien die onderwyser of beampte nie bygedra het nie, so'n bedrag as wat die Tesourie mag bepaal: Met dien verstande dat—

- (i) die bedrag aldus in die fonds gestort in die geval van 'n aldus verplaaste of aangestelde onderwyser of beampte nie minder is nie as wat die bedrag van die bedoelde totaal sou wees indien die onderwyser of beampte op die vervaldatums bydraes betaal het volgens die skaal van vier persent van sy salaris en pensioengewende toelaes;
- (ii) indien die bydraes deur so'n administrasie, departement, inrigting of liggaam betaal meer is as dié van die onderwyser of beampte, die administrasie, departement, inrigting of liggaam in plaas van die in paragraaf (a) bedoelde bedrag, die bedrag van die bydraes deur hom en deur die onderwyser of beampte betaal, in die fonds stort, en die in paragraaf (c) bedoelde rente bereken word op die bedrag van die bydraes wat deur die administrasie, departement, inrigting of liggaam en deur die onderwyser of beampte betaalbaar geword het, in plaas van op dubbel die bedrag van die bydraes wat deur die onderwyser of beampte betaalbaar geword het;
- (iii) indien die onderwyser of beampte tot 'n ondersteuningsfonds of volgens 'n ander soortgelyke plan bygedra het, die bedrag aan die fonds betaalbaar, in plaas van die in paragrafe (a), (b) en (c) vermelde bedrae, die bedrag is wat op krediet van die onderwyser of beampte staan;
- (iv) indien ingevolge die bepalings wat bedoelde ondersteuningsfonds of plan reguleer 'n versekeringspolis deel gevorm het van die voorsiening vir die onderwyser of beampte gemaak, hy die keuse kry, of om die polis kosteloos aan hom te laat oordra, of om die polis vir kontant af te koop, en die bedrag van die afkoopprys in die laasgenoemde geval gevoeg word by die bedoelde bedrag wat op sy krediet staan, en in die fonds gestort word;
- (v) indien die onderwyser of beampte ingevolge bedoelde bepalings by uitdienstreding geregtig is op 'n jaargeld, daar in die fonds gestort word, benewens enige ander betaling, die gekapitaliseerde waarde, soos deur die Tesourie bereken, van so'n jaargeld op die datum van die verplasing of aanstelling;
- (vi) indien die bedrag in die fonds gestort meer of minder is as die bedrag wat vir die doeleindes van die fonds ten opsigte van so 'n onderwyser of beampte se vorige pensioengewende diens nodig is, oor die oorskot beskik word of die tekort aangesuiwer word op 'n wyse deur die Tesourie bepaal.

(3) Indien so'n onderwyser of beampte nie ooreenkomstig sub-artikel (2) kies om sy vorige pensioengewende diens as pensioengewende diens ingevolge hierdie Wet te reken nie, kan hy binne 'n tydperk van drie maande vanaf die datum van sy verplasing of aanstelling skriftelik kies of—

- (a) om ooreenkomstig die bepalings van toepassing op die diens waarin hy tevore werksaam was behandel te word asof hy vrywillig bedank het; of
- (b) om, wanneer hy om een of ander rede aftree of afgedank of ontslaan word uit die staatsdiens, uit so'n aangewese fonds of uit die inkomste van bedoelde administrasie, departement, inrigting of ander liggaam, na gelang van die geval, die pensioen toegeken te word waarop hy op die datum van die verplasing of aanstelling geregtig sou gewees het ten opsigte van sy diens by daardie administrasie, departement, inrigting of liggaam, as hy op daardie datum om dieselfde rede afgetree het of afgedank of ontslaan was uit die diens van daardie administrasie, departement, inrigting of liggaam: Met dien verstande dat indien so 'n onderwyser of beampte aldus aftree of afgedank

in terms of section *nineteen*, any such annuity shall only be payable as from the date on which he attains an age at which he could have claimed to be retired from the service of such administration, department, institution or body: Provided further that if such teacher or officer elects to receive the benefits under this paragraph any policy of insurance which forms part of the provision made for him by such administration, department, institution or body, shall be transferred to him forthwith free of charge.

Members transferred to teaching or other service.

27. (1) If a member is transferred or is appointed directly without a break in his service to the teaching service of any provincial administration, or of the administration of the mandated territory, or of a department of education, or to the service of an institution for higher education or of any other institution or body in which he is subject to a pension law administered by any such administration or department, and becomes a contributor to another fund as from the date of such transfer or appointment and is permitted and elects to contribute to the other fund in respect of his past pensionable service in the public service within a period of three months from the date of transfer or appointment, the total contributions paid by the member and paid in respect of the member from revenue, together with interest, compounded annually, calculated at the rate of five per cent. per annum upon the amount of such contributions and according to the dates upon which they became payable, shall be transferred from the fund to such other fund: Provided that if the amount so transferred is more or less than the amount which is required in respect of such past pensionable service by such administration, department, institution or body for the purposes of such other fund, the excess shall be dealt with or the deficit shall be made good in such manner as the Treasury may determine.

(2) If a member who is so transferred or appointed to any such service is not permitted to contribute in respect of his past pensionable service in the public service, or if permitted to do so, does not so contribute, he may elect in writing within a period of three months of the date of transfer or appointment either—

(a) to be dealt with in accordance with the provisions of this Chapter as if he had retired voluntarily; or

(b) to be granted out of the fund or from revenue, as the case may be, if for any reason he retires or is retired or discharged from the service of such administration, department, institution or body, the pension to which he would have been entitled at the date of such transfer or appointment in respect of his service in the public service, had he at that date retired or been retired or discharged from the public service for the same reason: Provided that if such member so retires or is so retired by reason of the age which he has attained, any such annuity shall only be payable as from the date on which he attains an age at which he could have claimed to be retired from the public service.

Persons transferred from and to employment under the railway administration.

28. (1) Any person who is transferred to the public service from employment under the railway administration and makes contributions to the fund under the provisions of this Chapter, shall be entitled on his ultimate retirement to have the benefit payable to him upon retirement calculated upon the whole of his pensionable service under the railway administration and in the public service: Provided that the railway administration shall pay over to the Treasury for the benefit of the fund twice the amount of the said person's contributions together with interest, compounded annually, at the rate of five per cent. per annum.

(2) (a) When a member is transferred from the public service to employment under the railway administration and is permitted to reckon for pension purposes his period of pensionable employment in the public service as continuous with his period of pensionable employment under the railway administration, and elects so to reckon the said period, twice the amount of the contributions paid by and in respect of such member together with interest compounded annually, at the rate of five per cent. per annum, shall be paid to the railway administration, and he shall have no further claim upon the fund.

word ooreenkomstig artikel *negentien*, so 'n jaargeld alleen betaalbaar is vanaf die datum waarop hy 'n leeftyd bereik waarop hy sou kon aanspraak gemaak het op uittreding uit die diens van bedoelde administrasie, departement, inrigting of liggaam: Met dien verstande verder dat indien so 'n onderwyser of beampte kies om die voordele ingevolge hierdie paragraaf te ontvang, enige versekeringspolis wat deel vorm van die voorsiening deur bedoelde administrasie, departement, inrigting of liggaam vir hom gemaak, dadelik kosteloos aan hom oorgedra word.

27. (1) Indien 'n lid verplaas word na of sonder onderbreking van sy diens direk aangestel word in die onderwysdiens van 'n provinsiale administrasie of van die administrasie van die mandaatgebied of van 'n departement van opvoeding, of in die diens van 'n inrigting vir hoër onderwys of van 'n ander inrigting of liggaam waarin hy val onder 'n wet betreffende pensioene deur so 'n administrasie of departement uitgevoer, en vanaf die datum van die verplasing of aanstelling 'n bydraer tot 'n ander fonds word en toegelaat word en binne 'n tydperk van drie maande vanaf die datum van die verplasing of aanstelling kies om tot die ander fonds by te dra ten opsigte van sy vorige pensioengewende diens in die staatsdiens, word die totale bydraes deur die lid betaal en ten opsigte van die lid uit inkomste betaal, met rente, jaarliks samegestel, bereken teen die koers van vyf persent per jaar op die bedrag van daardie bydraes en volgens die datums waarop hul betaalbaar geword het, van die fonds na die ander fonds oorgedra: Met dien verstande dat indien die aldus oorgedraagde bedrag meer of minder is as die bedrag wat vir die doeleindes van die ander fonds ten opsigte van bedoelde vorige pensioengewende diens deur die administrasie, departement, inrigting of liggaam vereis word, oor die oorskot beskik word of die tekort aangesuiwer word op 'n wyse deur die Tesourie bepaal.

Lede verplaas na onderwys- of ander diens.

(2) Indien 'n lid wat aldus verplaas is na of aangestel is in so 'n diens nie toegelaat word om ten opsigte van sy vorige pensioengewende diens in die staatsdiens by te dra nie, of as hy toegelaat word om dit te doen, nie aldus bydra nie, kan hy binne 'n tydperk van drie maande vanaf die datum van sy verplasing of aanstelling skriftelik kies of—

- (a) om ooreenkomstig die bepalings van hierdie Hoofstuk behandel te word asof hy vrywillig uit diens getree het; of
- (b) om, wanneer hy om een of ander rede aftree of afgedank of ontslaan word uit die diens van bedoelde administrasie, departement, inrigting of liggaam, uit die fonds of uit inkomste, na gelang van die geval, die pensioen toegeken te word waarop hy op die datum van die verplasing of aanstelling geregtig sou gewees het ten opsigte van sy diens in die staatsdiens, as hy op daardie datum om dieselfde rede afgetree het of afgedank of ontslaan was uit die staatsdiens: Met dien verstande dat indien so 'n lid aldus aftree of afgedank word op grond van die leeftyd wat hy bereik het, so 'n jaargeld alleen betaalbaar is vanaf die datum waarop hy 'n leeftyd bereik waarop hy sou kon aanspraak gemaak het op uittreding uit die staatsdiens.

28. (1) Iemand wat van diens in die spoorweg-administrasie verplaas word na die staatsdiens en ingevolge die bepalings van hierdie Hoofstuk bydraes maak tot die fonds, is by sy uiteindelijke uitdienstreding geregtig om die voordeel wat by uitdienstreding aan hom betaalbaar is te laat bereken op die totaal van sy pensioengewende diens in die spoorweg-administrasie en in die staatsdiens: Met dien verstande dat die spoorweg-administrasie dubbel die bedrag van so 'n persoon se bydraes met rente, jaarliks saamgestel, teen die koers van vyf persent per jaar, ten bate van die fonds aan die Tesourie oorbetaal.

Persone verplaas van en na diens in die spoorweg-administrasie.

- (2) (a) Wanneer 'n lid van die staatsdiens na diens in die spoorweg-administrasie verplaas word en toegelaat word om vir pensioendoeleindes sy tydperk van pensioengewende diens in die staatsdiens en sy tydperk van pensioengewende diens in die spoorweg-administrasie as onafgebroke te reken, en kies om die bedoelde tydperke aldus te reken, word dubbel die bedrag van die bydraes deur en ten opsigte van so 'n lid betaal, met rente, jaarliks samegestel, teen die koers van vyf persent per jaar, aan die spoorweg-administrasie uitbetaal, en het hy geen verdere vordering teen die fonds nie.

(b) If a member so transferred is not permitted or if permitted does not elect to reckon his pensionable service prior to transfer as continuous with his pensionable service from the date of transfer, he may elect in writing within a period of three months of the date of transfer either—

(i) to be dealt with in accordance with the provisions of this Chapter as if he had retired voluntarily ; or

(ii) to be granted out of the fund or from revenue, as the case may be, if for any reason he retires or is retired or discharged from the service of the railway administration, the pension to which he would have been entitled at the date of transfer in respect of his service in the public service, had he at that date retired or been retired or discharged from the public service for the same reason : Provided that if such member so retires or is so retired by reason of the age which he has attained, any such annuity shall only be payable as from the date on which he attains an age at which he could have claimed to be retired from the public service.

(3) If the amount payable in terms of sub-section (1) or of paragraph (a) of sub-section (2) is more or less than the amount which is required in respect of such person's service under the authority from whose service he is transferred, for the purposes of the fund of which he is to become a member, the excess shall be paid in equal shares to him and the said authority and the deficiency shall be paid in equal shares by him and the said authority.

Benefits on retirement through injury, etc., resulting from discharge of duty.

29. (1) If a member is retired from the public service by reason of bodily injury or permanent ill-health arising out of and in the course of the discharge of his official duties, the Minister of Finance shall, in lieu of any other benefit which may be payable under this Chapter, grant him a pension, to be paid out of revenue, at the following rate :

(a) If it appears from the prescribed medical certificate that his capacity to contribute to the support of himself and his dependants is impaired to the extent of eighty per cent. or more, an annuity of not less than one-half and not more than two-thirds of his annual pensionable emoluments at the date of retirement.

(b) If it appears from such a certificate that his capacity so to contribute is impaired to the extent of forty per cent. or more but less than eighty per cent., either an annuity of not less than one-third and not more than one-half of his annual pensionable emoluments at the date of retirement, or a gratuity not exceeding twice his annual pensionable emoluments at that date, as the circumstances of the case may require.

(c) If it appears from such certificate that his capacity so to contribute is impaired to the extent of less than forty per cent., either an annuity not exceeding one-third of his annual pensionable emoluments at the date of retirement or a gratuity not exceeding the said emoluments, as the circumstances of the case may require :

Provided that—

(i) no such pension shall be payable if the injury or ill-health is attributable—

(a) to the member's drunkenness ; or

(b) to his serious and wilful misconduct other than drunkenness, unless the degree of disablement is eighty per cent. or more ;

(ii) the pension under this section shall in no case be of a lesser value or amount than the pension which would have been payable had the member been retired on the ground of re-organisation ;

(iii) the amounts paid to the fund by the member or in respect of the member shall be paid to revenue out of the fund, together with interest at the rate of four per cent. per annum, calculated according to the dates upon which the said amounts became payable.

(b) Indien 'n aldus verplaaste lid nie toegelaat word, of indien toegelaat, nie kies om sy pensioengewende diens voor die verplasing en sy pensioengewende diens vanaf die datum van die verplasing as onafgebroke te reken nie, kan hy binne 'n tydperk van drie maande vanaf die datum van verplasing skriftelik kies of—

(i) om ooreenkomstig die bepalings van hierdie Hoofstuk behandel te word asof hy vrywillig uit diens getree het; of

(ii) om, wanneer hy om een of ander rede aftree of afgedank of ontslaan word uit die diens van die spoorweg-administrasie, uit die fonds of uit inkomste, na gelang van die geval, die pensioen toegeken te word waarop hy op die datum van die verplasing geregtig sou gewees het ten opsigte van sy diens in die staatsdiens, as hy op daardie datum om dieselfde rede afgetree het of afgedank of ontslaan was uit die staatsdiens: Met dien verstande dat indien so 'n lid aldus aftree of afgedank word op grond van die leeftyd wat hy bereik het, so 'n jaargeld alleen betaalbaar is vanaf die datum waarop hy sou kon aanspraak gemaak het op uittreding uit die staatsdiens.

(3) Indien die bedrag ingevolge sub-artikel (1) of paragraaf (a) van sub-artikel (2) betaalbaar, meer of minder is as die bedrag wat vir die doeleindes van die fonds waarvan so 'n persoon 'n lid gaan word ten opsigte van sy diens by die outoriteit van wie se diens hy verplaas word, nodig is, word die oorskot in gelyke dele aan hom en bedoelde outoriteit uitbetaal en die tekort in gelyke dele deur hom en bedoelde outoriteit aangesuiwer.

29. (1) Indien 'n lid uit die staatsdiens afgedank word op grond van liggaamlike letsel of blywende slegte gesondheid wat ontstaan uit en in die loop van die vervulling van sy amppligte, ken die Minister van Finansies aan hom, in plaas van enige ander voordeel wat ingevolge hierdie Hoofstuk betaalbaar mog wees, 'n pensioen toe, wat uit inkomste betaald moet word, ooreenkomstig die volgende skaal:

Voordele by uitdientstreding weens letsel ens. voort-spruitende uit vervulling van pligte.

(a) Indien blyk uit die voorgeskrewe mediese sertifikaat dat sy vermoë om tot die onderhoud van homself en sy afhanklikes by te dra verswak is met tagtig persent of meer, 'n jaargeld van nie minder as die helfte en nie meer as twee-derdes nie van sy jaarlikse pensioengewende verdienste op die datum van afdanking.

(b) Indien uit so 'n sertifikaat blyk dat sy vermoë om aldus by te dra verswak is met veertig persent of meer maar met minder as tagtig persent, of 'n jaargeld van nie minder as 'n derde en nie meer as die helfte van sy jaarlikse pensioengewende verdienste op die datum van afdanking, of 'n gratifikasie, dubbel sy jaarlikse pensioengewende verdienste op daardie datum nie te bowe gaande nie, na gelang van die omstandighede van die geval.

(c) Indien uit so 'n sertifikaat blyk dat sy vermoë om aldus by te dra verswak is met minder as veertig persent, of 'n jaargeld, 'n derde van sy pensioengewende verdienste op die datum van afdanking nie te bowe gaande nie, of 'n gratifikasie, bedoelde verdienste nie te bowe gaande nie, na gelang van die omstandighede van die geval:

Met dien verstande dat—

(i) geen sodanige pensioen betaalbaar is nie as die letsel of slegte gesondheid toe te skrywe is—

(a) aan die lid se dronkenskap; of

(b) aan sy ernstige en opsetlike wangedrag, behalwe dronkenskap, tensy die mate van arbeidsongeskiktheid tagtig persent of meer bedra;

(ii) die pensioen ingevolge hierdie artikel in geen geval van 'n mindere waarde of bedrag is nie as die pensioen wat betaalbaar sou gewees het indien die lid op grond van reorganisasie afgedank was;

(iii) die bedrae deur die lid of ten opsigte van die lid in die fonds gestort, met rente teen die koers van vier persent per jaar, bereken volgens die datums waarop daardie bedrae betaalbaar geword het, uit die fonds in inkomste gestort word.

- (2) (a) Any annuity awarded under this section shall in the first instance be awarded temporarily and may from time to time be increased or decreased according to any variation in the degree of disablement of the member, until the degree of disablement is finally determined.
- (b) A gratuity may, before such final determination, be substituted for the annuity and in that event any payment made in respect of the annuity may, in calculating such gratuity, be disregarded.
- (c) The final determination of the degree of disablement shall be made within a period of five years from the date of retirement and any annuity granted to the member on such final determination shall not thereafter be increased or reduced: Provided that if it can be shown by medical testimony to the satisfaction of the Minister of Finance that there has been a substantial increase in the degree of disablement of such member, and that such increase arises out of the injury or ill-health which resulted in his retirement, the annuity may be increased accordingly.
- (3) (a) An annuity payable under this section may, subject to the second proviso to sub-section (1), be reduced if the pensioner at any time before such final determination unreasonably refuses to undergo such treatment for the condition which resulted in his retirement as the Treasury, after consultation with a medical practitioner, considers to be necessary.
- (b) A pensioner whose annuity has been so reduced may claim a medical examination by a board consisting of three medical practitioners, two of whom shall be nominated by the Treasury and one by the pensioner, to determine whether his refusal to undergo such treatment was unreasonable or not, and if such board finds that his refusal was not unreasonable he shall be paid his annuity at the same rate as before the reduction together with any portion thereof which has been withheld as a result of the reduction.
- (4) (a) The Treasury may, on such conditions as it may determine, permit the conversion into a gratuity of a portion of an annuity which has been granted under this section—
- (i) to a person whose degree of disablement has not been finally determined, if he has had not less than ten years pensionable service and makes application for such conversion within six months from the date of his retirement, or
- (ii) to a person whose degree of disablement has been finally determined, if he makes application for such conversion within a period of six months from the date of the final determination:
- Provided that no conversion shall be made which would cause the annuity to be reduced, in the case of a person referred to in sub-paragraph (i), to less than three-fourths of the minimum annuity according to the second proviso to sub-section (1), or in the case of a person referred to in sub-paragraph (ii), by more than one-fourth.
- (b) If such conversion has taken place in the case of a person referred to in sub-paragraph (i) and the annuity is increased upon the final determination of such person's disablement, the Treasury may, on application in accordance with sub-paragraph (ii), permit the conversion of a portion of the annual amount by which the annuity has been increased: Provided that such conversion shall not cause the said amount to be reduced by more than one-fourth.
- (5) (a) If a member who has been granted a pension under this section is reappointed to a post in the public service, the period of his pensionable service prior to retirement may, on such conditions as the Treasury may determine, be reckoned as continuous with his service following the reappointment, if such member makes written application therefor within three months from the date of his reappointment, and accepts the conditions so determined within three months from the date upon which he is advised of those conditions.

- (2) (a) 'n Jaargeld kragtens hierdie artikel toegeken word in eerste instansie tydelik toegeken en kan van tyd tot tyd verhoog of verminder word na gelang daar 'n verandering kom in die lid se mate van arbeidsongeskiktheid, totdat die mate van arbeidsongeskiktheid finaal vasgestel word.
- (b) Die jaargeld kan, voor bedoelde finale vasstelling, vervang word deur 'n gratifikasie en in daardie geval kan betalings wat ten opsigte van die jaargeld geskied het, by die berekening van die gratifikasie buite rekening gelaat word.
- (c) Die finale vasstelling van die mate van arbeidsongeskiktheid geskied binne 'n tydperk van vyf jaar vanaf die datum van afdanking en 'n jaargeld by die finale vasstelling aan die lid toegeken word daarna nie verhoog of verminder nie: Met dien verstande dat as die Minister van Finansies op grond van mediese getuienis oortuig is dat so'n lid se mate van arbeidsongeskiktheid aansienlik gestyg het, en dat die styging uit die letsel of slegte gesondheid wat op sy afdanking uitgeloop het, ontstaan, die jaargeld dienoreenkomstig verhoog mag word.
- (3) (a) 'n Jaargeld kragtens hierdie artikel betaalbaar kan, met inagneming van die tweede voorbehoudsbepaling van sub-artikel (1), verminder word indien die pensioentrekker te eniger tyd vóór bedoelde finale vasstelling op onredelike wyse weier om sodanige behandeling vir die ongesteldheid wat op sy afdanking uitgeloop het te ondergaan as wat die Tesourie, na oorleg met 'n geneesheer, nodig ag.
- (b) 'n Pensioentrekker wie se jaargeld aldus verminder is kan 'n mediese ondersoek eis deur 'n raad bestaande uit drie geneeshere, van wie twee deur die Tesourie en een deur die pensioentrekker benoem word, om vas te stel of sy weiering om die behandeling te ondergaan al dan nie onredelik was, en as die raad bevind dat sy weiering nie onredelik was nie, word hom sy jaargeld volgens dieselfde skaal as voor die vermindering betaal, benewens enige gedeelte daarvan wat ten gevolge van die vermindering teruggehou is.
- (4) (a) Die Tesourie kan, op die voorwaardes wat hy mag vasstel, die omsetting in 'n gratifikasie toestaan van 'n gedeelte van 'n jaargeld wat kragtens hierdie artikel toegeken is—
- (i) aan iemand wie se mate van arbeidsongeskiktheid nie finaal vasgestel is nie, indien hy nie minder as tien jaar pensioengewende diens gehad het nie en aansoek doen vir bedoelde omsetting binne ses maande vanaf die datum van sy afdanking, of
- (ii) aan iemand wie se mate van arbeidsongeskiktheid finaal vasgestel is, indien hy aansoek doen vir bedoelde omsetting binne 'n tydperk van ses maande vanaf die datum van die finale vasstelling:
- Met dien verstande dat geen omsetting plaasvind nie wat die jaargeld sou laat verminder, by iemand in sub-paragraaf (i) bedoel, tot minder as driekwart van die minimum jaargeld volgens die tweede voorbehoudsbepaling van sub-artikel (1), of by iemand in sub-paragraaf (ii) bedoel, met meer as 'n kwart.
- (b) Indien bedoelde omsetting plaasgevind het by iemand in sub-paragraaf (i) bedoel en die jaargeld by die finale vasstelling van so iemand se arbeidsongeskiktheid verhoog is, kan die Tesourie, op aansoek ooreenkomstig sub-paragraaf (ii), die omsetting toestaan van 'n gedeelte van die jaarlikse bedrag waarmee die jaargeld verhoog is: Met dien verstande dat die omsetting daardie bedrag nie met meer as 'n kwart laat verminder nie.
- (5) (a) Indien 'n lid wat kragtens hierdie artikel 'n pensioen toegeken is weer in 'n pos in die staatsdiens aangestel word, kan die tydperk van sy pensioengewende diens voor sy afdanking, en sy diens wat volg op die heraanstelling, op die voorwaardes wat die Tesourie mag vasstel, as onafgebroke gereken word, indien so 'n lid binne drie maande vanaf die datum van sy heraanstelling skriftelik daarvoor aansoek doen en die aldus vasgestelde voorwaardes aanneem binne drie maande vanaf die datum waarop daardie voorwaardes aan hom meegedeel word.

(b) If the pensionable service of such a member is so reckoned the amount paid to revenue in terms of the third proviso to sub-section (1), shall be repaid to the fund out of revenue together with interest compounded annually and calculated at the rate of four per cent. per annum as from the date upon which the amount was paid to revenue.

(c) The provisions of this sub-section shall *mutatis mutandis* apply in respect of a person to whom a pension has been granted under section *forty-two* or *fifty-four* of the Public Service Act, who is reappointed to a post in the public service on or after the commencement of this Act.

(6) A member to whom a pension has been granted under this section, shall cease to be liable for any arrear contributions which are unpaid at the date of his retirement.

Benefits to dependants on death from injury or ill-health resulting from discharge of duties.

30. (1) If a member dies as a result of an injury sustained or an illness contracted in the circumstances described in the preceding section, within five years from the date upon which the injury was sustained or the illness commenced, the Minister of Finance shall, whether or not the injury or illness is attributable to the member's drunkenness or to his serious and wilful misconduct, grant to or for the benefit of such of his dependants as the Treasury may determine, in lieu of any other benefit that may be payable to the dependants of such member in terms of this Chapter, such annuity, not exceeding one-half of the annual pensionable emoluments last drawn by such member, or such gratuity, as he considers to be reasonable in the circumstances of the case: Provided that such annuity or gratuity shall not be of a lesser value than such other benefit: Provided further that if a member dies before his retirement from the public service the amounts paid to the fund by the member or in respect of the member shall be paid to revenue out of the fund, together with interest at the rate of four per cent. per annum, calculated according to the dates upon which the said amounts became payable.

(2) Any such annuity shall cease to be payable—

(a) in the case of a female dependant other than a minor, when she marries;

(b) in the case of a female dependant who is a minor, when she reaches the age of twenty-one years, or marries; and

(c) in the case of a male dependant, when he reaches the age of eighteen years:

Provided that in the case of a native or coloured person the ages mentioned in paragraphs (a) and (b) shall be sixteen years: Provided further that the Minister of Finance may grant or continue the payment of an annuity to a dependant after such dependant has reached the age mentioned for any period during which he is attending an educational institution or is, by reason of age or mental or physical infirmity, unable to maintain himself.

(3) If a member who has been retired on an annuity in the circumstances mentioned in the preceding section dies within five years of the date of his retirement and under such circumstances that his dependants are not entitled to any benefit under sub-section (1), the provisions of sub-section (2) of section *twenty-two* shall *mutatis mutandis* apply.

(4) Any annuity or gratuity granted under this section shall be paid out of revenue.

(5) Any arrear contributions which were payable by a deceased member to or for the benefit of whose dependants an annuity or gratuity has been granted under this section, and which are unpaid at the date of such member's death, shall cease to be payable.

PART D.

FINANCIAL PROVISIONS.

Payments from revenue to the fund.

31. There shall be paid out of revenue to the fund, with effect as from the fixed date—

(1) at the end of each month—

(a) contributions at the rate of five and one quarter per cent. of the pensionable emoluments of old members with reference to which current contributions have been paid to the fund by such members during that month;

(b) an amount equal to the aggregate of the current contributions which have been paid to the fund by new members during that month.

- (b) Indien die pensioengewende diens van so'n lid aldus gereken word, word die bedrag wat ooreenkomstig die derde voorbehoudsbepaling van sub-artikel (1) in inkomste gestort is, uit inkomste in die fonds teruggestort met rente, jaarliks saamgestel en bereken teen die koers van vier persent per jaar vanaf die datum waarop die bedrag in inkomste gestort is.
- (c) Die bepalings van hierdie sub-artikel is *mutatis mutandis* van toepassing ten opsigte van iemand aan wie 'n pensioen kragtens artikel twee-en-veertig of vier-en-vyftig van die „Staatsdienst Wet” toegeken is, wat by of na die inwerkingtreding van hierdie Wet weer in 'n pos in die staatsdiens aangestel word.
- (6) 'n Lid aan wie 'n pensioen kragtens hierdie artikel toegeken is, hou op om aanspreeklik te wees vir agterstallige bydraes wat onbetaald is op die datum van sy afdanking.

30. (1) Indien 'n lid as gevolg van letsel of siekte opgedoen onder die omstandighede in die voorgaande artikel bedoel, binne vyf jaar vanaf die datum waarop die letsel opgedoen is of die siekte begin het, te sterwe kom, ken die Minister van Finansies, hetsy die letsel of siekte al dan nie aan die lid se dronkenskap of aan sy ernstige en opsetlike wangedrag toe te skryf is, in die plek van enige ander voordeel wat ingevolge hierdie Hoofstuk aan die afhanklikes van so 'n lid betaalbaar mog wees, aan of ten bate van diegene van sy afhanklikes wat die Tesourie mag aanwys, so 'n jaargeld toe, die helfte van die jaarlikse pensioengewende verdienste laas deur so 'n lid getrek nie te bowe gaande nie, of so 'n gratifikasie, as wat hy onder die omstandighede van die geval redelik ag: Met dien verstande dat so 'n jaargeld of gratifikasie nie van 'n mindere waarde is nie as bedoelde ander voordeel: Met dien verstande verder dat as 'n lid voor sy uittreding uit die staatsdiens te sterwe kom, die bedrae deur die lid en ten opsigte van die lid in die fonds gestort, uit die fonds in inkomste gestort word, met rente teen die koers van vier persent per jaar, bereken volgens die datums waarop daardie bedrae betaalbaar geword het.

Voordele aan afhanklikes by dood as gevolg van letsel of slegte gesondheid wat voortspruit uit vervulling van pligte.

- (2) So 'n jaargeld hou op om betaalbaar te wees—
- (a) by 'n vroulike afhanklike wat nie 'n minderjarige is nie, wanneer sy trou;
- (b) by 'n vroulike afhanklike, wat 'n minderjarige is, wanneer sy die leeftyd van een-en-twintig jaar bereik, of trou; en
- (c) by 'n manlike afhanklike, wanneer hy die leeftyd van agtien jaar bereik:

Met dien verstande dat by 'n naturel of kleurling die in paragrawe (a) en (b) bedoelde leeftye sestien jaar is: Met dien verstande verder dat die Minister van Finansies 'n jaargeld aan 'n afhanklike kan toeken of die betaling daarvan aan hom kan voortsit nadat daardie afhanklike die bedoelde leeftyd bereik het, vir solank as wat hy 'n onderwys-inrigting bywoon, of weens ouderdom of geestes- of liggaamsgebrek nie in staat is om homself te onderhou nie.

(3) Indien 'n lid wat onder die omstandighede in die voorgaande artikel bedoel met 'n jaargeld afgedank is, binne vyf jaar vanaf die datum van sy afdanking onder sulke omstandighede te sterwe kom dat sy afhanklikes nie op enige voordeel ingevolge sub-artikel (1) geregtig is nie, is die bepalings van sub-artikel (2) van artikel twee-en-twintig *mutatis mutandis* van toepassing.

(4) 'n Jaargeld of gratifikasie kragtens hierdie artikel toegeken word uit inkomste betaal.

(5) Agterstallige bydraes wat betaalbaar was deur 'n oorlede lid aan of ten bate van wie se afhanklikes 'n jaargeld of gratifikasie kragtens hierdie artikel toegeken is, en wat op die datum van so 'n lid se dood onbetaald is, hou op om betaalbaar te wees.

DEEL D.

FINANSIËLE BEPALINGS.

31. Met ingang vanaf die vasgestelde datum word uit inkomste in die fonds gestort—

Gelde uit inkomste in die fonds gestort.

- (1) op die end van elke maand—

- (a) bydraes volgens die skaal van vyf en 'n kwartpersent van die pensioengewende verdienste van ou lede met betrekking tot welke lopende bydraes gedurende daardie maand deur sulke lede in die fonds gestort is;
- (b) 'n bedrag gelyk aan die totaal van die lopende bydraes gedurende daardie maand deur nuwe lede in die fonds gestort.

- (2) on the thirty-first day of March in each year—
- (a) an amount equal to the aggregate of the contributions in respect of past pensionable service for which members may have become liable, and the liability for which has been notified to the Treasury during the period to which the payment relates ;
 - (b) interest at the rate of four per cent. per annum on—
 - (i) twice the amount of the contributions referred to in sub-paragraph (a), compounded annually and calculated according to the dates upon which the said contributions would have become payable had the members been contributors as from the commencement of the periods of their past pensionable service ;
 - (ii) the total amount of the contributions referred to in sub-paragraph (a), and of any arrear contributions due by persons who immediately prior to the fixed date were contributors to an old fund, which remains unpaid at the end of each month during the period in respect of which the interest is paid, calculated on a monthly basis as from the fixed date ; and
 - (iii) the average of the uninvested amounts in the fund at the end of each month during the period in respect of which the interest is paid.

Investment of fund
balances.

32. (1) All amounts paid to the fund shall be lodged in the Treasury to the credit of the fund.

(2) So much of the amounts so lodged as is not required for current purposes shall be a "deposit" for the purposes of the Public Debt Commissioners Act, 1911, as amended, but notwithstanding anything contained in the said Act the Public Debt Commissioners shall invest any such balance which may from time to time be available in the stock mentioned in subsection (3).

(3) Any amount so available may be borrowed by the Governor-General, and the Treasury may issue local inscribed stock for any amount so borrowed in accordance with the provisions of the General Loans Consolidations and Amendment Act, 1917, as amended : Provided that such stock—

- (a) shall bear interest at the rate of four per cent. per annum, payable half-yearly on the thirty-first day of March and the thirtieth day of September in each year ;
- (b) shall be issued at par ;
- (c) shall not be transferable except at par to the fund or to the joint pre-Union fund established under section *forty-six* ; and
- (d) may be redeemed by the Treasury at such times as it may deem fit.

(4) The Public Debt Commissioners may retain the securities held on behalf of the fund at the commencement of this Act until such time as the said securities may be realised.

Accounts.

33. (1) The Treasury shall cause full and true accounts of the fund to be kept showing particulars in connection with—

- (a) all amounts paid or due—
 - (i) to the fund by members ;
 - (ii) out of the fund to members or their dependants ;
 - (iii) to the fund from revenue or to revenue from the fund ;
 - (iv) to or from the fund in terms of sections *twenty-five* to *twenty-eight* ; and
- (b) any other matter of which it is necessary to keep an account for the purposes of this Act, or in order that an actuarial valuation of the fund may be made at any time.

(2) The Treasury shall cause the books and accounts of the fund to be balanced up to the thirty-first day of March in every year and a balance sheet to be prepared showing the assets and liabilities of the fund as at that date.

- (2) op die een-en-dertigste dag van Maart in elke jaar—
- (a) 'n bedrag gelyk aan die totaal van die bydraes ten opsigte van vorige pensioengewende diens waarvoor lede aanspreeklik mog geword het en van die aanspreeklikheid vir welke aan die Tesourie kennis gegee is gedurende die tydperk waarop die betaling betrekking het;
 - (b) rente teen die koers van vier persent per jaar op—
 - (i) dubbel die bedrag van die in sub-paragraaf (a) bedoelde bydraes, jaarliks saamgestel en bereken volgens die datums waarop daardie bydraes betaalbaar sou geword het as die lede bydraers was vanaf die begin van die tydperke van hul vorige pensioengewende diens;
 - (ii) die totaal van die in sub-paragraaf (a) bedoelde bydraes, en van enige agterstallige bydraes verskuldig deur persone wat onmiddellik vóór die vasgestelde datum tot 'n ou fonds bygedra het, wat onbetaald bly op die end van elke maand gedurende die tydperk ten opsigte waarvan die rentebetaling geskied, bereken op 'n maandelikse grondslag, vanaf die vasgestelde datum; en
 - (iii) die gemiddelde van die onbelegde bedrae in die fonds op die end van elke maand gedurende die tydperk ten opsigte waarvan die rente betaal word.

32. (1) Alle bedrae in die fonds gestort word op krediet van die fonds by die Tesourie inbetaal. Belegging van oorskotte in fonds.

(2) Soveel van die aldus inbetaalde bedrae as wat nie vir lopende doeleindes nodig is nie, is 'n „deposito” vir die doeleindes van die „Openbare Schuld Kommissarissen Wet, 1911”, soos gewysig, maar die Kommissarisse van Openbare Skuld belê, niteenstaande andersluidende bepalings in vermelde Wet, so 'n oorskot wat van tyd tot tyd beskikbaar mag wees, in die in sub-artikel (3) bedoelde fondse.

(3) 'n Aldus beskikbare bedrag kan deur die Goewerneur-generaal geleen word, en die Tesourie kan vir 'n aldus geleende bedrag plaaslike ingeskrewe fondse uitgee ooreenkomstig die bepalings van die „Algemene Leningen Konsolidatie en Wijzigings Wet, 1917”, soos gewysig: Met dien verstande dat bedoelde fondse—

- (a) rente dra teen die koers van vier persent per jaar, halfjaarliks betaalbaar op die een-en-dertigste dag van Maart en die dertigste dag van September van elke jaar;
- (b) teen pari uitgegee word;
- (c) nie oordraagbaar is nie behalwe teen pari aan die fonds of die gesamentlike voor-Unie-fonds kragtens artikel ses-en-veertig gestig; en
- (d) deur die Tesourie op die tydstippe wanneer hy dit wenslik ag, afgelos kan word.

(4) Die Kommissarisse van Openbare Skuld kan die sekuriteite wat hul by die inwerkingtreëding van hierdie Wet ten behoeve van die fonds hou, behou totdat dié sekuriteite te gelde gemaak mog word.

33. (1) Die Tesourie laat met betrekking tot die fonds volledig en juis boekhou, met vermelding van besonderhede wat betref— Boekhouding.

- (a) alle bedrae—
 - (i) deur lede in die fonds gestort of aan die fonds verskuldig;
 - (ii) aan lede of hul afhanklikes uit die fonds betaal of verskuldig;
 - (iii) uit inkomste in die fonds gestort of aan die fonds verskuldig, of uit die fonds in inkomste gestort of aan inkomste verskuldig;
 - (iv) ooreenkomstig artikels vyf-en-twintig tot en met agt-en-twintig in die fonds gestort of aan die fonds verskuldig, of uit die fonds betaal of verskuldig; en
- (b) enige ander aangeleentheid waarvan dit nodig is om boek te hou vir die doeleindes van hierdie Wet of sodat die fonds te eniger tyd aktuaries gewaardeer kan word.

(2) Die Tesourie laat die boeke en rekenings van die fonds op die een-en-dertigste dag van Maart in elke jaar afsluit, en 'n balansstaat opstel waarin die bates en laste van die fonds op daardie datum aangegee word.

Quinquennial valuation of the fund.

34. (1) The assets and liabilities of the fund as at the thirty-first day of March, 1937, and every five years thereafter, shall be valued by an actuary, who shall declare any surplus or deficiency which appears therein, and report thereon to the Minister of Finance.

(2) The report of the actuary shall be laid upon the Tables of both Houses of Parliament within one month of the receipt thereof by the Minister of Finance if Parliament be then in session, or if Parliament be not then in session, within one month after the commencement of its next ensuing session.

(3) If the actuary in such report certifies that there is a substantial surplus or that there is a substantial deficiency, the contributions payable by or in respect of members, or of any class of members, shall be reduced or increased, as the case may be, to such an extent, and as from such date, as the Minister of Finance, on the recommendation of the actuary, may determine: Provided that the rates at which contributions are payable in respect of members from revenue shall not, except in respect of the excess contributions payable by old members in terms of this Chapter, be reduced to less than the rates at which contributions are payable by members.

(4) The decision of the Minister of Finance under sub-section (3) shall be laid upon the Tables of both Houses of Parliament within one year from the date on which the report of the actuary was laid thereon.

Fund to be administered by Treasury.

35. The business of the fund shall be conducted by the Treasury and the cost in connection therewith and of any actuarial investigations and matters incidental thereto shall be paid out of revenue.

CHAPTER II.

PENSION PROVISIONS FOR OFFICERS AND EMPLOYEES NOT FALLING UNDER CHAPTER I.

Application of certain provisions to officers and employees not falling under Chapter I

36. (1) The provisions of section *nine*, of sub-section (2), paragraph (a) and the proviso's to paragraphs (a) and (b) and paragraph (c) of sub-section (3), and sub-section (4) of section *twenty-one*, and of section *twenty-seven*, shall, *mutatis mutandis*, in the circumstances therein described, apply to all officers and employees of the Government whose pension rights are governed by provisions other than those contained in Chapter I or VI except as regards any contributions made by such officers or employees to any widows' pension fund: Provided that for the purposes of the application of the provisions of sub-section (2) and paragraph (a) of sub-section (3) of section *twenty-one* to such officers and employees the words "other than a member of the services" shall be deemed to be deleted.

(2) The provisions of section *twenty-seven* shall *mutatis mutandis* further apply in respect of any officer who was a contributor to one of the funds established under section *twenty-five* of the Public Service Act or to any pension or provident fund established under a law in force in any part of South Africa now included in the Union, and who was transferred or appointed directly without a break in service on or after the first day of August, 1923, and before the commencement of this Act to the service of any administration, department, institution or body referred to in the firstmentioned section.

Application of sections 29 and 30 to officers and employees not falling under Chapter I or having no pension rights, and to their dependants.

37. The provisions of sections *twenty-nine* and *thirty* shall *mutatis mutandis* apply in the circumstances therein described to all officers and employees of the Government whose pension rights are governed by provisions other than those contained in Chapter I or who possess no pension rights, or to the dependants of such officers and employees, as the case may be: Provided that no benefit under any of the said sections shall be paid to any such officer, employee or dependant unless he renounces any rights which he may have under such other provisions, not being pension rights in respect of a widows' pension fund.

Contributions of Cape teachers on transfer to or appointment in the public service or the Cape Civil Service.

38. Anything to the contrary notwithstanding in Chapter I of this Act or in any other law, an officer who was a teacher on the regular teaching establishment of the Colony of the Cape of Good Hope, and who is or was transferred or appointed directly from that establishment to a post in the public service or in the civil service of that Colony shall contribute to the Civil Service Pension Fund referred to in the Civil Service and

34. (1) Die bates en laste van die fonds op die een-en-dertigste dag van Maart 1937, en elke vyf jaar daarna, word deur 'n aktuaris gewaardeer, en hy moet die oorskot of tekort wat daarin voorkom vasstel, en 'n rapport dienaangaande by die Minister van Finansies indien.

Vyfjaarlikse
waardering van die
fonds.

(2) Die rapport van die aktuaris word binne een maand vanaf die ontvangs daarvan deur die Minister van Finansies in albei Huise van die Parlement ter Tafel gelê, as die Parlement dan in sitting is, of as die Parlement nie dan in sitting is nie, binne een maand na die aanvang van die eersvolgende sessie.

(3) Indien die aktuaris in bedoelde rapport sertifiseer dat daar 'n aansienlike oorskot of dat daar 'n aansienlike tekort is, word die bydraes deur of ten opsigte van lede of deur enige kategorie van lede betaalbaar, tot so 'n mate en vanaf so 'n datum verhoog of verminder, na gelang van die geval, as wat die Minister van Finansies, op aanbeveling van die aktuaris, mag bepaal: Met dien verstaande dat die skale waarvolgens bydraes ten opsigte van lede uit inkomste betaalbaar is, behalwe ten opsigte van die meerdere bydraes deur ou lede volgens hierdie Hoofstuk betaalbaar, nie afgebring word tot benede die skale waarvolgens bydraes deur lede betaalbaar is nie.

(4) Die beslissing van die Minister van Finansies kragtens sub-artikel (3) word binne 'n jaar vanaf die datum waarop die rapport van die aktuaris ter Tafel gelê is, in albei Huise van die Parlement ter Tafel gelê.

35. Die sake van die fonds word deur die Tesourie bestuur, en die koste in verband daarmee, en van enige aktuariese ondersoek en daarmee in verband staande aangeleenthede, word uit inkomste betaal.

Fonds word deur
Tesourie bestuur.

HOOFSTUK II.

PENSIOENBEPALINGS BETREFFENDE BEAMPTES EN WERKNEMERS WAT NIE ONDER HOOFSTUK I VAL NIE.

36. (1) Die bepalinge van artikel *nege*, van sub-artikel (2), paragraaf (a) en die voorbehoudsbepalinge van paragrafe (a) en (b) en paragraaf (c) van sub-artikel (3), en sub-artikel (4) van artikel *een-en-twintig*, en van artikel *sewen-en-twintig* is, onder die daarin bedoelde omstandighede, *mutatis mutandis* van toepassing op alle beamptes en werknemers van die Regering wie se pensioenregte beheer word deur ander bepalinge dan dié in Hoofstuk I of VI vervat, behalwe wat betref bydraes deur sulke beamptes of werknemers tot een of ander weduwees-pensioenfonds gemaak: Met dien verstande dat by die toepassing van die bepalinge van sub-artikel (2) en paragraaf (a) van sub-artikel (3) van artikel *een-en-twintig* op bedoelde beamptes en werknemers, die woorde „behalwe 'n lid van die dienste” geag word geskrap te wees.

Toepassing van
sekere bepalinge op
beamptes en werknemers
wat nie onder Hoofstuk I
val nie.

(2) Die bepalinge van artikel *sewen-en-twintig* is verder *mutatis mutandis* van toepassing ten opsigte van 'n beampte wat bygedra het tot een van die fondse kragtens artikel *vyf-en-twintig* van die „Staatsdienst Wet” gestig of tot 'n pensioen- of ondersteuningsfonds gestig kragtens 'n wet van krag in 'n deel van Suid-Afrika tans in die Unie opgeneem, en wat op of na die eerste dag van Augustus 1923 en vóór die inwerkingtreding van hierdie Wet verplaas is na of direk sonder onderbreking van diens aangestel is in die diens van 'n administrasie, departement, inrigting of liggaam in eersvermelde artikel bedoel.

37. Die bepalinge van artikel *nege-en-twintig* en *dertig* is, onder die daarin bedoelde omstandighede, *mutatis mutandis* van toepassing op alle beamptes en werknemers van die Regering wie se pensioenregte beheer word deur ander bepalinge dan dié in Hoofstuk I vervat, of wat geen pensioenregte het nie, of op die afhanklikes van sulke beamptes en werknemers, na gelang van die geval: Met dien verstande dat geen voordeel kragtens een van daardie artikels aan so 'n beampte, werknemer of afhanklike betaal word nie, tensy hy afstand doen van alle regte, behalwe pensioenregte ten opsigte van 'n weduwees-pensioenfonds, wat hy kragtens bedoelde ander bepalinge mog hê.

Toepassing van
artikels 29 en 30 op
beamptes en
werknemers wat
nie onder Hoofstuk
I val nie of geen
pensioenregte het
nie, en op hul
afhanklikes.

38. 'n Beampte wat 'n onderwyser was op die vaste onderwyspersoneel van die Kolonie die Kaap die Goeie Hoop, en wat van daardie personeel verplaas word of was na, of direk aangestel word of was in 'n pos in die staatsdiens of in die siviele diens van daardie Kolonie moet, nieteenstaande andersluidende bepalinge in Hoofstuk I van hierdie Wet of in enige ander wet, vanaf die datum van sy verplasing of aanstelling bydra tot die Siviele Diens Pensioenfonds vermeld in die „Civil Service and

Bydraes deur
Kaapse onder-
wysers by verpla-
sing na of aanstel-
ling in die staats-
diens of die Kaapse
siviele diens.

Pensions Funds Act, 1895, of the Cape of Good Hope, as from the date of his transfer or appointment, and shall, if he so desires, be permitted, subject to regulations, to contribute in respect of the period of his employment as such teacher.

Awards to native and coloured employees and their dependants.

39. (1) A native or coloured employee of the Government in respect of whom provision for a pension is not otherwise made by law or who becomes subject to the provisions of this sub-section in terms of sub-section (3), shall on retirement or discharge at the pensionable age, or for a reason mentioned in paragraph (b), (c), (d) or (e) of sub-section (5) of section *twenty-one*, or under sub-section (3) of section *nineteen* of the Public Service Act, be entitled to a pension according to the following provisions :

(a) If his pensionable service is five years or more but less than fifteen years, a gratuity calculated at the rate of one-half of his pensionable emoluments during the last month of his actual service for each complete year of his pensionable service.

(b) If his pensionable service is fifteen years or more but less than twenty-five years, either an annuity calculated at the rate of twenty shillings per annum for each complete year of his pensionable service but not exceeding one-half of his average annual pensionable emoluments during the last ten years of such service, or a gratuity calculated at the rate of one-eighteenth of the said average emoluments for each complete year of his pensionable service, whichever the employee may elect.

(c) If his pensionable service is twenty-five years or more, he may elect to receive either—

(i) an annuity calculated at the rate of thirty shillings per annum for each complete year of his pensionable service not exceeding forty years, or an annuity of two-thirds of his average annual pensionable emoluments during the last ten years of such service, whichever is less, or

(ii) a gratuity calculated at the rate of one-twelfth of such average emoluments for each complete year of his pensionable service not exceeding forty years.

(2) (a) If a native or coloured employee to whom sub-section (1) applies dies after the completion of five years' pensionable service, there may, subject to the provisions of paragraph (b), be paid to or for the benefit of such of his dependants as the Treasury may determine—

(i) if death occurs before his retirement or discharge, a gratuity calculated at a rate not exceeding one-quarter of his pensionable emoluments during the last month of his service in respect of each complete year of his pensionable service; and

(ii) if death occurs after his retirement or discharge on an annuity, a gratuity equal to the amount by which the gratuity which could have been paid to his dependants under sub-paragraph (i), had his death occurred before retirement or discharge, exceeds the amount of the annuity payments which have been made to such employee up to the time of his death.

(b) The provisions of sub-section (3) of section *twenty-two* shall *mutatis mutandis* apply in respect of any gratuity referred to in this sub-section.

(3) If a native or coloured employee to whom sub-section (1) applies, or any native or coloured employee who is appointed after the commencement of this Act, becomes or is liable to contribute to the fund under Chapter I, he shall elect in writing within three months of being called upon to do so, whether he is to be subject to the provisions of Chapter I or of sub-section (1), and if he fails so to elect, he shall be subject to the provisions of sub-section (1).

(4) Any annuity or gratuity under this section shall be paid out of revenue.

(5) In this section "pensionable age" means not less than fifty-five and not more than sixty-five years, and "pensionable service" means pensionable service in terms of sub-sections (1), (2) and (4) of section *twenty-three*.

Pensions Funds Act, 1895" van die Kaap die Goeie Hoop, en word, onderhewig aan regulasie, toegelaat om by te dra ten opsigte van die tydperk van sy diens as so 'n onderwyser, indien hy sulks verlang.

39. (1) 'n Naturelle- of kleurling-werknemer van die Regering ten aansien van wie geen ander voorsiening vir 'n pensioen by wet gemaak word nie, of wat ingevolge sub-artikel (3) onder die bepalings van hierdie sub-artikel kom te val, is by uitdienst-treding of ontslag op die pensioenleef tyd of om 'n rede in para-graaf (b), (c), (d) of (e) van sub-artikel (5) van artikel *een-en-twintig* bedoel, of kragtens sub-artikel (3) van artikel *negentien* van die „Staatsdienst Wet”, geregtig op 'n pensioen ooreen-komstig die volgende bepalings:—

Toekennings aan
naturelle- en kleur-
lingwerknemers en
hul afhanklikes.

- (a) Indien sy pensioengewende diens vyf jaar of meer maar minder as vyftien jaar beloop, 'n gratifikasie bereken volgens die skaal van die helfte van sy pensioengewende verdienste gedurende die laaste maand van sy werklike diens vir elke voltooide jaar van sy pensioengewende diens.
- (b) Indien sy pensioengewende diens vyftien jaar of meer maar minder as vyf-en-twintig jaar beloop, of 'n jaargeld bereken volgens die skaal van twintig sjielings per jaar vir elke voltooide jaar van sy pensioengewende diens, maar die helfte van sy gemiddelde jaarlikse pensioengewende verdienste gedurende die laaste tien jaar van daardie diens nie te bowe gaande nie, of 'n gratifikasie bereken volgens die skaal van één-agtiende van bedoelde gemiddelde verdienste vir elke voltooide jaar van sy pensioengewende diens, welke die werknemer ook al mog kies.
- (c) Indien sy pensioengewende diens vyf-en-twintig jaar of meer beloop, kan hy kies om te ontvang of—
- (i) 'n jaargeld bereken volgens die skaal van dertig sjielings per jaar vir elke voltooide jaar van sy pensioengewende diens veertig jaar nie te bowe gaande nie, of 'n jaargeld van twee-derdes van sy gemiddelde jaarlikse pensioengewende verdienste gedurende die laaste tien jaar van daardie diens, na gelang die een of die ander die minste is, of
- (ii) 'n gratifikasie bereken volgens die skaal van een-twaalfde van bedoelde gemiddelde verdienste vir elke voltooide jaar van sy pensioengewende diens veertig jaar nie te bowe gaande nie.
- (2) (a) Indien 'n naturelle- of kleurling-werknemer op wie sub-artikel (1) van toepassing is na voltooiing van vyf jaar pensioengewende diens te sterwe kom, kan, met inagneming van die bepalings van paragraaf (b), aan of ten bate van diegene van sy afhanklikes wat die Tesourie mag aanwys, betaal word—
- (i) as die dood plaasvind voor sy uitdienst-treding of ontslag, 'n gratifikasie bereken volgens 'n skaal wat 'n kwart van sy pensioengewende verdienste gedurende die laaste maand van sy diens, ten opsigte van elke voltooide jaar van sy pensioengewende diens, nie te bowe gaan nie; en
- (ii) as die dood plaasvind na sy uitdienst-treding of ontslag met 'n jaargeld, 'n gratifikasie gelyk aan die bedrag waarmee die gratifikasie wat kragtens sub-paragraaf (i) aan sy afhanklikes kon betaal geword het as sy dood voor uitdienst-treding of ontslag plaasgevind het, die bedrag van die jaargelde wat aan so 'n werknemer tot by sy dood betaal is, te bowe gaan.
- (b) Die bepalings van sub-artikel (3) van artikel *twee-en-twintig* is *mutatis mutandis* van toepassing ten opsigte van 'n gratifikasie in hierdie sub-artikel bedoel.
- (3) Indien 'n naturelle- of kleurling-werknemer op wie sub-artikel (1) van toepassing is, of 'n naturelle- of kleurling-werknemer wat na die inwerking-treding van hierdie Wet aangestel is, onder verpligting kom of is om ingevolge Hoofstuk I tot die fonds by te dra, moet hy binne drie maande nadat hy aangesê is sulks te doen, skriftelik kies of hy wil val onder die bepalings van Hoofstuk I dan wel van sub-artikel (1), en as hy versuim aldus te kies, val hy onder die bepalings van sub-artikel (1).
- (4) 'n Jaargeld of gratifikasie ingevolge hierdie artikel word uit inkomste betaal.
- (5) In hierdie artikel beteken „pensioenleef tyd” nie minder as vyf-en-vyftig en nie meer as vyf-en-sestig jaar nie, en „pensioengewende diens” pensioengewende diens volgens sub-artikels (1), (2) en (4) van artikel *drie-en-twintig*.

Benefits to non-pensionable officers and persons appointed under section 5 (2) of Act No. 3 of 1911.

40. (1) An officer to whom, in terms of this or any other law, no benefit is payable upon retirement or discharge, and who has served for a period of not less than two years, may, on retirement or discharge at the pensionable age or for a reason referred to in paragraph (b), (c), (d) or (e) of sub-section (5) of section *twenty-one*, or under sub-section (3) of section *nineteen* of the Public Service Act, be paid a gratuity equal to six per cent. of the pensionable emoluments drawn by him during the period of his pensionable service from and after the fixed date, together with four per cent. of the pensionable emoluments drawn by him during the period of his pensionable service before that date.

(2) (a) If an officer to whom sub-section (1) applies dies before his retirement or discharge there may, subject to the provisions of paragraph (b), be paid to or for the benefit of such of his dependants as the Treasury may determine the amount of the gratuity which could have been paid to him had he been retired or discharged at the date of his death.

(b) The provisions of sub-section (3) of section *twenty-two* shall *mutatis mutandis* apply in respect of any such amount.

(3) Notwithstanding anything to the contrary contained in sub-section (2) of section *five* of the High Commissioner's Act, 1911, the provisions of sub-section (1) shall apply to any person appointed under the firstmentioned sub-section to a clerical post in the office of the High Commissioner, or to such other post in the said office as may be approved by the Commission for the purposes of this sub-section, who does not become a new member under section *eighteen*: Provided that in calculating any gratuity to be paid to such person, any period of service during which his pensionable emoluments were less than sixty pounds per annum shall not be taken into account.

(4) Any gratuity under this section shall be paid out of revenue.

(5) In this section "pensionable service" means pensionable service in terms of sub-sections (1), (2) and (4) of section *twenty-three*.

CHAPTER III.

PROVISIONS APPLICABLE TO ALL OFFICERS AND PENSIONERS.

Special death gratuities.

41. (1) If an officer on the fixed establishment of the public service dies before retirement, the following amounts shall, in lieu of any other benefit under this Act or any other law (not being a benefit payable out of a widows' pension fund), and subject to the provisions of sub-section (3), be paid to or for the benefit of such of his dependants as the Treasury may determine, if the said amounts exceed the amount of such other benefit:—

(a) Out of revenue, a gratuity calculated according to the scale of one-thirty-sixth of the average annual pensionable emoluments of such officer during the last seven years of his pensionable service or during the whole period of such service, whichever is the lesser period, in respect of each completed year of pensionable service not exceeding forty years.

(b) Out of the pension fund (other than a widows' pension fund) to which he contributed, or from revenue or from both, as the circumstances may require, an amount equal to—

(i) his own contributions together with four per cent. of those contributions in respect of each completed year of pensionable service in excess of thirteen years, and

(ii) any excess or additional contributions paid by him.

(2) If any person who was such an officer and to whom Chapter I does not apply, dies within five years after the date of his retirement or discharge on annuity, there shall, subject to the provisions of sub-section (3), be paid to or for the benefit of such of his dependants as the Treasury may determine, in lieu of any benefit under any other law (not being a benefit payable out of a widows' pension fund) an amount equal to the aggregate amount of the annuity which would have been paid to such officer from the date of his death until the expiry of the said five years, had he not died.

(3) The provisions of sub-section (3) of section *twenty-two* shall *mutatis mutandis* apply in respect of any amount referred to in sub-section (1) or (2).

40. (1) 'n Beampte aan wie volgens hierdie of enige ander wet geen voordeel by uitdienstreding of ontslag betaalbaar is nie, en wat vir 'n tydperk van minstens twee jaar diens gedoen het, kan by uitdienstreding of ontslag op die pensioenleeftyd of om 'n rede in paragraaf (b), (c), (d) of (e) van sub-artikel (5) van artikel *een-en-twintig* bedoel, of kragtens sub-artikel (3) van artikel *negentien* van die „Staatsdienst Wet”, 'n gratifikasie betaal word gelyk aan ses persent van die pensioengewende verdienste deur hom gedurende die tydperk van sy pensioengewende diens vanaf en na die vasgestelde datum getrek, met vier persent daarby van die pensioengewende verdienste deur hom gedurende die tydperk van sy pensioengewende diens voor daardie datum getrek.

Voordele van beamptes wat nie vir pensioen in aanmerking kom nie, en aan persone kragtens artikel 5 (2) van Wet No. 3 van 1911 aangestel.

(2) (a) Indien 'n beampte op wie sub-artikel (1) van toepassing is voor sy uitdienstreding of ontslag te sterwe kom, kan, met inagneming van die bepaling van paragraaf (b), aan of ten bate van diegene van sy afhanklikes wat die Tesourie mag aanwys, die bedrag van die gratifikasie uitbetaal word wat aan hom kon uitbetaal geword het as hy op die datum van sy dood afgedank of ontslaan was.

(b) Die bepaling van sub-artikel (3) van artikel *twee-en-twintig* is *mutatis mutandis* van toepassing ten aansien van so 'n bedrag.

(3) Die bepaling van sub-artikel (1) is, nieteenstaande andersluidende bepaling in sub-artikel (2) van artikel *vyf* van die „Hoge Kommissaris Wet, 1911”, vervat, van toepassing op iemand kragtens laasgenoemde sub-artikel aangestel in 'n klerklike pos in die kantoor van die Hoë Kommissaris, of in so 'n ander pos in daardie kantoor as wat die Kommissie vir die doeleindes van hierdie sub-artikel mag goedkeur, wat nie kragtens artikel *agtien* 'n nuwe lid word nie: Met dien verstande dat by die berekening van 'n gratifikasie wat aan so 'n persoon uitbetaal gaan word, 'n dienstydsperk gedurende welke sy pensioengewende verdienste minder as sestig pond per jaar was, buite rekening gelaat word.

(4) 'n Gratifikasie ingevolge hierdie artikel word uit inkomste betaal.

(5) In hierdie artikel beteken „pensioengewende diens” pensioengewende diens volgens sub-artikels (1), (2) en (4) van artikel *drie-en-twintig*.

HOOFSTUK III.

BEPALINGS VAN TOEPASSING OP ALLE BEAMPTES EN PENSIOENTREKKERS.

41. (1) Indien 'n beampte op die vaste personeel van die staatsdiens voor uitdienstreding te sterwe kom, word, met inagneming van die bepaling van sub-artikel (3), die volgende bedrae in plaas van enige ander voordeel ingevolge hierdie of enige ander wet (behalwe 'n voordeel uit 'n weduweespensioenfonds betaalbaar) aan of ten bate van diegene van sy afhanklikes wat die Tesourie mag aanwys uitbetaal, as daardie bedrae die bedrag van bedoelde ander voordeel te bowe gaan:—

Spesiale gratifikasies by dood.

(a) Uit inkomste, 'n gratifikasie bereken volgens die skaal van één-ses-en-dertigste van die gemiddelde jaarlikse pensioengewende verdienste van so 'n beampte gedurende die laaste sewe jaar van sy pensioengewende diens of gedurende die hele tydperk van daardie diens, na gelang die een of die ander tydperk die kortste is, ten opsigte van elke voltooide jaar pensioengewende diens veertig jaar nie te bowe gaande nie.

(b) Uit die pensioenfonds (behalwe 'n weduweespensioenfonds) waartoe hy bygedra het, of uit inkomste of uit albei, na gelang van die omstandighede, 'n bedrag gelyk aan—

(i) sy eie bydraes benewens vier persent van daardie bydraes ten opsigte van elke voltooide jaar pensioengewende diens bo dertien jaar, en

(ii) enige meerdere of addisionele bydraes deur hom betaal.

(2) Indien iemand wat so 'n beampte was en op wie Hoofstuk I nie van toepassing is nie, te sterwe kom binne vyf jaar na sy uitdienstreding of ontslag met 'n jaargeld, word, met inagneming van die bepaling van sub-artikel (3), aan of ten bate van diegene van sy afhanklikes wat die Tesourie mag aanwys, in plaas van 'n voordeel ingevolge enige ander wet (behalwe 'n voordeel uit 'n weduweespensioenfonds betaalbaar), 'n bedrag uitbetaal gelyk aan die totaalbedrag van die jaargeld wat aan so 'n beampte uitbetaal sou geword het vanaf die datum van sy dood tot afloop van daardie vyf jaar, as hy nie gesterf het nie.

(3) Die bepaling van sub-artikel (3) van artikel *twee-en-twintig* is *mutatis mutandis* van toepassing ten opsigte van 'n in sub-artikel (1) of (2) bedoelde bedrag.

(4) In this section the expressions "own contributions" and "excess contributions" have the meaning assigned to them in section one.

Persons transferred from or to the service of other Governments in British Commonwealth.

42. (1) If any officer in the public service is transferred to pensionable employment under the Government of the United Kingdom or of any state within the British Commonwealth or of any British colony, possession or protectorate, the Minister of Finance may, when such officer retires or is retired or discharged on pension from the service of the Government to which he was so transferred, make a contribution towards such pension in respect of his pensionable service while he was an officer in the public service.

Subject to the provisions of sub-section (3), the said contribution shall be assessed on the basis on which a pension payable to such officer would have been computed had he retired or been retired or discharged from the public service at the date of transfer: Provided that such contribution shall only be made if he would have been entitled to a pension had he retired or been retired or discharged from the public service on the same ground on which he retires or is retired or discharged from the service to which he has been so transferred: Provided further that in the case of a person who retires or is retired by reason of the age which he has attained the contribution shall only be payable as from the date on which he attains an age at which he could have claimed to be retired from the public service.

(2) If any person is transferred to the public service from the service of a Government referred to in sub-section (1) the provisions of Chapter I or of section forty, as the circumstances may require, shall apply to such person.

(3) Notwithstanding anything in this Act contained, an annuity or an annuity together with a gratuity based on his pensionable service in the public service may be granted to any such officer or person who has had less than ten years' pensionable service in the public service, either as a contribution towards a pension payable to him or as a separate pension, if the continuous period of his service in the public service and in the service to or from which the transfer has taken place, is ten years or more.

Power to reduce pensions in certain cases.

43. If any person who has retired or been retired or discharged from the service of the Government—

(a) is found by the Commission, after enquiry in accordance with regulation—

- (i) to have misappropriated public money or Government property before his retirement; or
- (ii) to have made a false statement for the purpose of obtaining a pension, knowing the statement to be false; or

(b) refuses to comply with any reasonable request made by the Minister to give such assistance as is in his power or such information as he is able to give, in connection with any matter within the scope of his duties whilst he was in the said service,

the Minister of Finance may, on the recommendation of the Commission, reduce any pension or substitute a gratuity for any annuity to which such person may be entitled: Provided that such person shall not, as a result of the exercise of the powers conferred by this section, receive a gratuity which is less than the amount by which the contributions paid by him to the fund concerned exceed the pension benefits received by him to the date of the reduction or substitution, or an annuity which, according to actuarial calculation, is of a lesser value than the said amount.

Treatment for disablement resulting from discharge of duties.

44. (1) If any person formerly employed by the Government who has been retired in the circumstances described in section twenty-nine has suffered any disablement as the result of an injury arising out of and in the course of the discharge of his official duties, the Treasury may authorise treatment for the disablement, and if the disablement involves the loss of the use of any part of the body, such person shall be entitled to receive any artificial part of the body or any mechanical device necessitated by such disablement, and any such part or device shall whenever necessary be renewed, repaired or adjusted: Provided that the need for such treatment, renewal, repair or adjustment is not attributable to such person's drunkenness or serious and wilful misconduct.

(2) The expenditure incurred in giving effect to the provisions of sub-section (1) shall be paid out of revenue.

(4) In hierdie artikel het die uitdrukking „eie bydraes” en „meerdere bydraes” die betekenis aan hul in artikel *een* toegeken.

42. (1) Indien 'n beampte in die staatsdiens oorgeplaas word na pensioengewende diens by die Regering van die Verenigde Koninkryk of van 'n staat binne die Britse Gemenebes of van 'n Britse kolonie, besitting of protektoraat, kan die Minister van Finansies, wanneer daardie beampte met pensioen aftree of afgedank of ontslaan word uit die diens van die regering waarheen hy aldus verplaas was, 'n bydrae tot daardie pensioen maak ten opsigte van sy pensioengewende diens terwyl hy 'n beampte in die staatsdiens was.

Persone van of na die diens van ander regerings in die Britse Gemenebes verplaas.

Daardie bydrae word, met inagneming van die bepalings van sub-artikel (3), bereken op die grondslag waarop 'n pensioen aan so 'n beampte betaalbaar bereken sou geword het as hy op die datum van oorplasing afgetree het of afgedank of ontslaan was uit die staatsdiens: Met dien verstande dat so 'n bydrae alleen gemaak word indien hy op 'n pensioen geregtig sou gewees het as hy afgetree het of afgedank of ontslaan was uit die staatsdiens op dieselfde grond waarop hy aftree of afgedank of ontslaan word uit die diens waarheen hy aldus oorgeplaas is: Met dien verstande verder dat die bydrae, in die geval van iemand wat aftree of afgedank word op grond van die leeftyd wat hy bereik het, alleen betaalbaar is vanaf die datum waarop hy 'n leeftyd bereik waarop hy sou kon aanspraak gemaak het op uittreding uit die staatsdiens.

(2) Indien iemand oorgeplaas word van die diens van 'n Regering in sub-artikel (1) bedoel na die staatsdiens, is die bepalings van Hoofstuk I of van artikel *veertig*, na gelang van die omstandighede, op so iemand van toepassing.

(3) 'n Jaargeld of 'n jaargeld met 'n gratifikasie gebaseer op sy pensioengewende diens in die staatsdiens kan, nieteenstaande andersluidende bepalings in hierdie Wet vervat, toegeken word aan so 'n beampte of persoon wat minder as tien jaar pensioengewende diens in die staatsdiens gehad het, hetsy by wyse van 'n bydrae tot 'n pensioen aan hom betaalbaar, hetsy by wyse van 'n afsonderlike pensioen, as die onafgebroke tydperk van sy diens in die staatsdiens en in die diens waarheen of vanwaar die oorplasing plaasgevind het, tien jaar is of meer.

43. Indien iemand wat afgetree het of afgedank of ontslaan is uit die diens van die Regering—

Mag om pensioene in sekere gevalle te verminder.

(a) volgens bevinding van die Kommissie na ondersoek ooreenkomstig regulasie—

(i) voor sy uitdienstreding homself staatsgeld of -eiendom onwettig toegeëien het; of

(ii) 'n valse verklaring gemaak het met die doel om 'n pensioen te verkry, wetende dat die verklaring vals is; of

(b) weier om te voldoen aan 'n redelike versoek deur die Minister gedaan om sodanige hulp te verleen as wat hy by magte is om te verleen of om sodanige informasie te verstrek as wat hy kan, in verband met 'n aangeleentheid binne die bestek van sy pligte terwyl hy in bedoelde diens was,

kan die Minister van Finansies op aanbeveling van die Kommissie 'n pensioen waarop so iemand geregtig mog wees verminder, of 'n jaargeld waarop hy geregtig mog wees vervang deur 'n gratifikasie: Met dien verstande dat so iemand nie as gevolg van die uitoefening van die magte by hierdie artikel verleen, 'n gratifikasie ontvang wat minder is as die bedrag waarmee die bydraes wat hy in die betrokke fonds gestort het, die pensioenvoordele deur hom tot op die datum van die vermindering of vervanging ontvang, te bowe gaan nie, of 'n jaargeld wat volgens aktuariese berekening van 'n mindere waarde is as daardie bedrag nie.

44. (1) Indien iemand wat voorheen in diens van die Regering was en wat onder die omstandighede in artikel *negen-en-twintig* bedoel afgedank is, een of ander liggaamsgebrek opgelopen het as gevolg van 'n letsel wat uit en in die loop van die vervulling van sy amppligte ontstaan het, kan die Tesourie magtiging verleen tot behandeling vir die gebrek, en as die gebrek die verlies meebring van die gebruik van 'n liggaamsdeel, is so iemand geregtig om 'n kunsmatige liggaamsdeel of toestel deur daardie gebrek nodig gemaak, te ontvang, en so 'n deel of toestel word, wanneer nodig, vernu, herstel of reggestel: Met dien verstande dat die noodsaaklikheid vir bedoelde behandeling hernuwing, herstel of regstelling nie toe te skrywe is aan so iemand se dronkenskap of ernstige en opsetlike wangedrag nie.

Behandeling vir gebrek wat voortspuit uit vervulling van pligte.

(2) Die uitgawes by die uitvoering van die bepalings van sub-artikel (1) beloop word uit inkomste betaal.

(3) The provisions of this section shall not apply to any person who is entitled to compensation or medical aid under the Workmen's Compensation Act, 1934.

Pensions not to be granted or varied except in accordance with statute.

45. No grant of a pension or other similar benefit in respect of former employment by the Government or by the Government of any part of South Africa now included in the Union or any increase thereof, and no alteration of any condition, or condonation of a breach of any condition, upon which any such pension or benefit is by law to be earned, shall be lawful, unless the grant, increase, alteration or condonation is specifically authorized by statute.

CHAPTER IV.

AMALGAMATION OF CERTAIN PRE-UNION PENSION FUNDS.

Amalgamation of Cape and Transvaal funds.

46. (1) The Civil Service Pension Fund referred to in the Civil Service and Pensions Funds Act, 1895, of the Cape of Good Hope, and the Administrative and Clerical Service Pension Fund established under the Public Service and Pensions Act, 1908, of the Transvaal, shall be deemed to have been amalgamated as from the fixed date and to form one fund, to be called the "joint pre-Union fund".

(2) For the purposes of any law relating to any contributions or payments to be made to or to any payments to be made from any of the said two funds, the joint pre-Union fund shall be deemed to have been substituted for the fund concerned as from the said date.

Quinquennial valuation and special contributions by revenue.

47. (1) The assets and liabilities of the joint pre-Union fund as at the thirty-first day of March, 1938, and every five years thereafter, shall be valued by an actuary, who shall declare any surplus or deficiency which appears therein, and report thereon to the Minister of Finance.

(2) The provisions of sub-section (2) of section *thirty-four* shall apply in respect of the said report.

(3) There shall from time to time be paid from revenue into the joint pre-Union fund such special contributions as may be required to secure the solvency thereof and any amount left in the said fund after all its liabilities have been met, shall be paid into revenue.

Application of sections 32, 33, and 35 in respect of joint pre-Union fund.

48. The provisions of sections *thirty-two*, *thirty-three* and *thirty-five* shall *mutatis mutandis* apply in respect of the joint pre-Union fund.

CHAPTER V.

UNION WIDOWS' PENSION FUND.

Interpretation of terms used in this Chapter.

49. In this Chapter, unless inconsistent with the context—
 "contributions" means contributions to the fund under this Act or under Chapter VI of the Public Service Act;
 "member" means a contributor to the fund;
 "the fund" means the Union Widows' Pension Fund established under section *seventy-eight* of the Public Service Act;
 "the tables" means the tables referred to in sub-section (1) of section *fifty-five*.

Continuation of fund.

50. (1) The Union Widows' Pension Fund established under section *seventy-eight* of the Public Service Act, shall be continued under the name of the "Union Widows' Pension Fund".

(2) The fund shall consist of—

- (a) the amount standing to the credit of the fund at the commencement of this Act;
- (b) contributions made by members in accordance with the provisions of this Chapter;
- (c) interest received on deposits under sub-section (3);
- (d) the amounts paid to the fund out of revenue under section *fifty-four*; and
- (e) any other amounts which are to be credited to the fund.

(3) All amounts paid to the fund shall be lodged in the Treasury to the credit of the fund and so much of the amounts so lodged as is not required for current purposes shall be a "deposit" for the purposes of the Public Debt Commissioners Act, 1911, as amended, and shall be invested accordingly.

(4) All pensions under this Chapter shall be paid out of the fund.

(3) Die bepalings van hierdie artikel is nie van toepassing nie op iemand wat ingevolge die Werksmense Skadeloosstelling Wet, 1934, op skadeloosstelling of geneeskundige behandeling geregtig is.

45. Geen toekenning van 'n pensioen of ander soortgelyke voordeel ten opsigte van vorige diens by die Regering of by die regering van 'n deel van Suid-Afrika tans in die Unie opgeneem, of enige verhoging daarvan, en geen verandering van 'n voorwaarde, of kondonasië van 'n versuim om 'n voorwaarde na te kom, waarop so 'n pensioen volgens wet verdien moet word, is wettig nie, tensy die toekenning, verhoging, verandering of kondonasië uitdruklik by wetsbepaling gemagtig word.

Pensioene word nie toegeken of gewysig behalwe volgens wetsbepaling.

HOOFSTUK IV.

SAMESMELTING VAN SEKERE VOOR-UNIE-PENSIOENFONDSE.

46. (1) Die Siviele Diens Pensioenfonds in die „Civil Service and Pensions Funds Act, 1895” van die Kaap die Goeie Hoop bedoel, en die Administratiewe en Klerklike Diens Pensioenfonds kragtens die „Public Service and Pensions Act, 1908” van die Transvaal gestig, word geag vanaf die vasgestelde datum saamgesmelt te gewees het en één fonds uit te maak, genoem die „gesamentlike voor-Unie-fonds”.

Samesmelting van Kaapse en Transvaalse fondse.

(2) Vir die doeleindes van 'n wet betreffende bydraes of gelde wat gestort moet word in of betalings wat moet geskied uit een of ander van daardie twee fondse, word die betrokke fonds geag vanaf vermelde datum vervang te gewees het deur die gesamentlike voor-Unie-fonds.

47. (1) Die bates en laste van die gesamentlike voor-Unie-fonds op die een-en-dertigste dag van Maart 1938, en elke vyf jaar daarna, word deur 'n aktuaris gewaardeer, en hy moet die oorskot of tekort wat daarin voorkom vasstel, en 'n rapport dienaangaande by die Minister van Finansies indien.

Vyfjaarlikse waarderings en spesiale bydraes uit inkomste.

(2) Die bepalings van sub-artikel (2) van artikel vier-en-dertig is ten opsigte van bedoelde rapport van toepassing.

(3) Daar word van tyd tot tyd sodanige spesiale bydraes uit inkomste in die gesamentlike voor-Unie-fonds gestort as wat nodig mog wees om hom solvent te hou, en enige bedrag wat in daardie fonds oorbly nadat al sy verpligtings nagekom is, word in inkomste gestort.

48. Die bepalings van artikels twee-en-dertig, drie-en-dertig, en vyf-en-dertig is *mutatis mutandis* van toepassing ten opsigte van die gesamentlike voor-Unie-fonds.

Toepassing van artikels 32, 33 en 35 ten opsigte van gesamentlike voor-Unie-fonds.

HOOFSTUK V.

UNIE-WEDUWEESPENSIOENFONDS.

49. In hierdie Hoofstuk, tensy uit die samehang anders blyk, beteken—

„bydraes” bydraes tot die fonds ingevolge hierdie Wet of ingevolge Hoofstuk VI van die „Staatsdiens Wet”;

„lid” 'n bydraer tot die fonds;

„die fonds” die Unie-weduweespensioenfonds kragtens artikel agt-en-sewentig van die „Staatsdiens Wet” gestig;

„die tafels” die in sub-artikel (1) van artikel vyf-en-vyftig bedoelde tafels.

Omskrywing van uitdrukkings in hierdie Hoofstuk gebesig.

50. (1) Die Unie-weduweespensioenfonds kragtens artikel agt-en-sewentig van die „Staatsdiens Wet” gestig, word voortgeset onder die naam van die „Unie-weduweespensioenfonds”.

Voortsetting van fonds.

(2) Die fonds bestaan uit—

(a) die bedrag wat op krediet van die fonds staan by die inwerkingtreding van hierdie Wet;

(b) bydraes deur lede ooreenkomstig die bepalings van hierdie Hoofstuk gemaak;

(c) rente op deposito's ingevolge sub-artikel (3) ontvang;

(d) die bedrae ingevolge artikel vier-en-vyftig uit inkomste in die fonds gestort; en

(e) enige ander bedrae waarmee die fonds dien gekrediteer te word.

(3) Alle bedrae in die fonds gestort word op krediet van die fonds by die Tesourie inbetaal, en soveel van die aldus inbetaalde bedrae as wat nie vir lopende doeleindes nodig is nie, is 'n „deposito” vir die doeleindes van die „Openbare Schuld Kommissarissen Wet, 1911”, soos gewysig, en word dienooreenkomstig belê.

(4) Alle pensioene ingevolge hierdie Hoofstuk word uit die fonds betaal.

Membership.

51. (1) All persons who were members of the fund immediately prior to the commencement of this Act shall continue to be members thereof.

(2) Subject to the provisions of sub-sections (3) and (4), every male member of the fund established under Chapter I shall be a member of the fund as from the date upon which he becomes a member of the first-mentioned fund.

(3) A male member of the fund established under Chapter I who contributes provisionally to that fund or whose pensionable emoluments are less than one hundred and twenty pounds per annum, shall not become a member of the fund until such time as he has ceased to contribute provisionally or such time as he is in receipt of pensionable emoluments of not less than one hundred and twenty pounds per annum, as the case may be.

(4) A member whose pensionable emoluments are reduced to less than one hundred and twenty pounds per annum may, if he so desires, cease to contribute to the fund.

Ordinary contributions.

52. (1) Every member shall contribute to the fund at the rate of one per cent. of his pensionable emoluments while in the public service and, unless otherwise provided in this Chapter, he shall after retirement or discharge on annuity continue to contribute at the same rate on his pensionable emoluments immediately before his retirement or discharge: Provided that a member who retires or is retired or discharged on an annuity of less than one hundred pounds shall, whether or not a gratuity is also payable to him, have the option of contributing on the amount of such annuity or of ceasing to contribute.

(2) Such contributions shall be made by monthly deductions from the member's pensionable emoluments or annuity, as the case may be. In calculating the amount of such deductions a fraction of a penny shall be taken as one penny.

(3) A member on sick or other leave with or without pay shall contribute to the fund on his full pensionable emoluments.

(4) If a member is suspended from his office and reinstated in that office or in another office or post, he shall contribute in respect of the period of suspension. The contributions so to be made by him shall be deducted from the first amount of his pensionable emoluments paid after such reinstatement.

(5) If a member dies before his retirement or discharge, any contributions payable by him to the fund under this section which remain unpaid at the time of his death shall be deducted from the annuity payable to his widow.

Voluntary additional contributions.

53. (1) A member desirous of securing a higher annuity for his widow than that secured by his contributions under the preceding section, may be permitted to make additional contributions to the fund, subject to the following provisions:—

(a) The annuity to be secured by the additional contributions shall not exceed two hundred and fifty pounds, shall be in respect of a named wife and shall not be transferable to any other wife.

(b) Acceptance of the proposal to make additional contributions shall be in the discretion of the Treasury, whose decision shall be final.

(c) No such proposal shall be entertained unless it is made before the retirement or discharge of the member and unless it is supported by a certificate as to the member's state of health in a form approved by the Treasury and signed by a medical practitioner approved by the Treasury.

(2) The provisions of sub-sections (2), (3) and (4) of section *fifty-two* shall *mutatis mutandis* apply in respect of additional contributions.

(3) Payment of additional contributions may, if the member so desires, be discontinued at any time.

(4) If the wife predeceases the member, any additional contributions which he has been permitted to make shall cease to be payable, and any such contributions paid by him up to the date of the death, shall be forfeited to the fund.

Payments from Revenue.

54. As from the fixed date, there shall be paid out of revenue to the fund on the thirty-first day of March in each year—

(a) interest at the rate of five per cent. per annum on the average of the uninvested amounts in the fund at the end of each month during the period in respect of which the interest is paid;

(b) the amount by which the interest on any amount deposited with the Public Debt Commissioners in pursuance of sub-section (3) of section *fifty*, falls short of five per cent. per annum.

51. (1) Alle persone wat onmiddellik vóór die inwerking-treding van hierdie Wet lede was van die fonds, bly lede daarvan. Lidmaatskap.

(2) Elke manlike lid van die fonds ingevolge Hoofstuk I gestig, is, behoudens die bepalings van sub-artikels (3) en (4), 'n lid van die fonds vanaf die datum waarop hy 'n lid word van eersbedoelde fonds.

(3) 'n Manlike lid van die fonds ingevolge Hoofstuk I gestig wat voorlopig tot daardie fonds bydra of wie se pensioengewende verdienste minder as honderd-en-twintig pond per jaar bedra, word nie 'n lid van die fonds nie alvorens hy opgehou het om voorlopig by te dra of alvorens hy, na gelang van die geval, 'n pensioengewende verdienste trek van minstens honderd-en-twintig pond per jaar.

(4) 'n Lid wie se pensioengewende verdienste verminder word tot minder as honderd-en-twintig pond per jaar kan, indien hy sulks verlang, sy bydraes tot die fonds staak.

52. (1) Elke lid dra tot die fonds by volgens die skaal van één persent van sy pensioengewende verdienste terwyl hy in die staatsdiens is, en gaan, behoudens andersluidende bepalings in hierdie Hoofstuk, na uitdienstreding of ontslag met 'n jaargeld, voort om volgens dieselfde skaal by te dra op sy pensioengewende verdienste onmiddellik voor sy uitdienstreding of ontslag: Met dien verstande dat 'n lid wat aftree of afgedank of ontslaan word met 'n jaargeld van minder as honderd pond, hetsy ook 'n gratifikasie al dan nie aan hom betaalbaar is, die keuse kry om op die bedrag van daardie jaargeld by te dra of sy bydraes te staak. Gewone bydraes.

(2) Bedoelde bydraes word gemaak by wyse van maandelikse aftrekkings van die lid se pensioengewende verdienste of jaargeld; na gelang van die geval. By die berekening van die bedrag van bedoelde aftrekkings word 'n breuk van 'n pennie gereken vir een pennie.

(3) 'n Lid op siekte- of ander verlof met of sonder betaling dra tot die fonds by op sy volle pensioengewende verdienste.

(4) Indien 'n lid in sy betrekking geskors word en in daardie betrekking of in 'n ander betrekking of pos herstel word, dra hy by ten opsigte van die tydperk van skorsing. Die bydraes wat aldus deur hom gemaak moet word, word afgetrek van die eerste bedrag van sy pensioengewende verdienste wat betaal word na bedoelde herstelling.

(5) Indien 'n lid voor sy uitdienstreding of ontslag te sterwe kom, word enige bydraes deur hom ingevolge hierdie artikel aan die fonds betaalbaar wat by sy dood nog onbetaald is, afgetrek van die jaargeld wat aan sy weduwee betaalbaar is.

53. (1) 'n Lid wat vir sy weduwee 'n hoër jaargeld wil verkry as dié wat deur sy bydraes ingevolge die voorgaande artikel verkry word, kan toegelaat word om, onderhewig aan die volgende bepalings, addisionele bydraes tot die fonds te maak: Vrywillige addisionele bydraes.

(a) Die jaargeld deur die addisionele bydraes verkry te word moet nie tweehonderd-en-vyftig pond te bowe gaan nie; moet ten aansien van 'n aangewese eggenote wees en is nie oordraagbaar op 'n ander eggenote nie.

(b) Dit staan die Tesourie vry om die voorstel om addisionele bydraes te maak aan te neem of nie, en sy beslissing is afdoende.

(c) So 'n voorstel word nie oorweeg nie tensy dit gemaak word vóór die lid se uitdienstreding of ontslag en tensy dit ondersteun word deur 'n sertifikaat betreffende die lid se gesondheidstoestand in 'n vorm deur die Tesourie goedgekeur en geteken deur 'n geneesheer deur die Tesourie goedgekeur.

(2) Die bepalings van sub-artikels (2), (3) en (4) van artikel twee-en-vyftig is *mutatis mutandis* van toepassing ten aansien van addisionele bydraes.

(3) Betaling van addisionele bydraes kan, as die lid dit verlang, te eniger tyd gestaak word.

(4) Indien die eggenote vóór die lid te sterwe kom, is addisionele bydraes wat hy toegelaat is om te maak, nie langer betaalbaar nie, en enige sodanige bydraes wat tot op die datum van die dood deur hom betaal is, word aan die fonds verbeur.

54. Vanaf die vasgestelde datum word op die een-en-dertigste dag van Maart in elke jaar uit inkomste in die fonds gestort— Betalings uit inkomste.

(a) rente teen die koers van vyf persent per jaar op die gemiddelde van die onbelegde bedrae in die fonds op die end van elke maand gedurende die tydperk ten aansien waarvan die rente betaal word;

(b) die bedrag waarmee die rente op 'n bedrag wat by die Kommissaris van Openbare Skuld ingevolge sub-artikel (3) van artikel vyftig gedeponeer is, kortskiet op vyf persent per jaar.

Annuities payable to widows.

55. (1) There shall be paid to the widow of a deceased member an annuity calculated on the contributions of such member in accordance with the tables in use immediately prior to the fixed date in connection with the pensions of widows under the Public Service Act or such other tables approved by the Treasury on the advice of an actuary as the Governor-General may prescribe.

(2) Such annuity shall be paid in addition to any other benefit to which the widow may be entitled under this Act or under any other law.

(3) If the annuity payable to a widow does not exceed eighteen pounds it may, if the widow makes written application therefor before any payment in respect of such annuity has been made to her, be commuted into a single cash payment calculated in accordance with the tables.

Benefits to minor children.

56. (1) If a member dies without leaving a widow to whom an annuity is payable under this Chapter, there shall be paid to such of his minor children or stepchildren, and according to such allocation amongst them, as the Treasury may determine, the contributions paid by him under section *fifty-two* of this Act or section *eighty* of the Public Service Act.

(2) If a member's widow to whom an annuity is payable dies before she has drawn in respect of the annuity secured by the contributions referred to in the preceding sub-section an amount equal to the aggregate of those contributions, the difference between the amount so drawn by her and the said aggregate shall be paid to such of the minor children or stepchildren of the member, and according to such allocation amongst them, as the Treasury may determine.

Members entitled to surrender value of contributions.

57. (1) Subject to the provisions of sub-section (2), a member shall be entitled to the surrender value of his contributions calculated according to the tables if—

- (a) he retires or is retired or discharged from the public service otherwise than on an annuity;
- (b) he is transferred to a post which is not a post in one of the divisions of the public service; or
- (c) he ceases in terms of sub-section (4) of section *fifty-one* or of sub-section (1) of section *fifty-two* to contribute to the fund.

(2) A member who retires or is retired or discharged from the public service for a reason specified in sub-section (2) or (3) of section *twenty-one*, otherwise than on an annuity, shall not be entitled to any payment in respect of any contributions made by him to the fund.

Contributions on transfer or secondment.

58. (1) A member who is transferred to an office under the Government of the United Kingdom or of any state within the British Commonwealth or of any British colony, possession or protectorate, or to the service of a provincial administration, the administration of the mandated territory, the railway administration, a department of education, an institution for higher education, the Land and Agricultural Bank of South Africa, or any board or institution or body established by law, shall be paid the surrender value of his contributions calculated according to the tables.

(2) A member who is seconded to the service of a Government, administration, department, bank, board, institution or body mentioned in sub-section (1) shall continue, while so seconded, to contribute to the fund on an amount, not less than his pensionable emoluments immediately prior to the date of such secondment, to be determined by the Treasury, and the amount so determined shall for the purposes of this Chapter be deemed to be his pensionable emoluments during the period of secondment.

Proof of marriage and of age of wife.

59. Every married member shall submit to the Treasury proof of his marriage and of the age of his wife. No payment of any benefit under this Chapter shall be made unless such proof has been produced.

Quinquennial valuation of fund.

60. (1) The assets and liabilities of the fund as at the thirty-first day of March, 1938, and every five years thereafter shall be valued by an actuary, who shall declare any surplus or deficiency which appears therein and report thereon to the Minister of Finance.

(2) If the actuary in such report certifies that there is a substantial surplus or that there is a substantial deficiency, the benefits payable out of the fund, or some of such benefits, shall be increased or reduced, as the case may be, to such an extent, and as from such a date, as the Minister of Finance may determine on the recommendation of the actuary: Provided that no benefit already granted shall be reduced.

55. (1) Aan die weduwee van 'n oorlede lid word 'n jaargeld betaal bereken op die bydraes van daardie lid ooreenkomstig die tafels wat onmiddellik voor die vasgestelde datum in verband met die pensioene van weduwees ingevolge die „Staatsdienst Wet” in gebruik was, of sulke ander tafels deur die Tesourie op advies van 'n aktuaris goedgekeur as wat die Goewerneur-generaal mag voorskryf.

Jaargelde aan weduwees betaalbaar.

(2) Bedoelde jaargeld word betaal bowe en behalwe enige ander voordeel waarop die weduwee ingevolge hierdie Wet of enige ander wet geregtig mog wees.

(3) Indien die jaargeld aan 'n weduwee betaalbaar agtien pond nie te bowe gaan nie, kan dit, as die weduwee skriftelik daarvoor aansoek doen voordat enige betaling ten opsigte van die jaargeld aan haar geskied het, omgeset word in 'n enkele kontantbetaling ooreenkomstig die tafels bereken.

56. (1) Indien 'n lid sterf sonder 'n weduwee na te laat aan wie 'n jaargeld ingevolge hierdie Hoofstuk betaalbaar is, word die bydraes deur hom ingevolge artikel *twee-en-vyftig* van hierdie Wet of artikel *tagtig* van die „Staatsdienst Wet” betaal, aan sodanige van sy minderjarige kinders of stiefkinders en volgens sodanige toewysing onder hul as wat die Tesourie mag bepaal, uitbetaal.

Voordele aan minderjarige kinders.

(2) Indien 'n lid se weduwee aan wie 'n jaargeld betaalbaar is te sterwe kom voordat sy ten opsigte van die jaargeld wat deur die bydraes in die voorgaande sub-artikel bedoel verkry is, 'n bedrag getrek het wat gelykstaan met die totaalbedrag van daardie bydraes, word die verskil tussen die bedrag aldus deur haar getrek en die bedoelde totaalbedrag uitbetaal aan sodanige van die minderjarige kinders of stiefkinders van die lid, en volgens sodanige toewysing onder hul, as wat die Tesourie mag bepaal.

57. (1) 'n Lid is, behoudens die bepalings van sub-artikel (2), geregtig op die afkoopwaarde van sy bydraes volgens die tafels bereken indien—

Lede geregtig op afkoopwaarde van bydraes.

(a) hy anders as met 'n jaargeld aftree of afgedank of ontslaan word uit die staatsdiens;

(b) hy verplaas word na 'n betrekking wat nie 'n betrekking in 'n afdeling van die Staatsdiens is nie; of

(c) hy ooreenkomstig sub-artikel (4) van artikel *een-en-vyftig* of sub-artikel (1) van artikel *twee-en-vyftig* sy bydraes tot die fonds staak.

(2) 'n Lid wat anders as met 'n jaargeld aftree of afgedank of ontslaan word uit die staatsdiens om 'n in sub-artikel (2) of (3) van artikel *een-en-twintig* bedoelde rede, is nie geregtig op enige uitkering ten opsigte van bydraes deur hom tot die fonds gemaak nie.

58. (1) 'n Lid wat oorgeplaas word na 'n betrekking onder die Regering van die Verenigde Koninkryk of van 'n staat binne die Britse Gemenebes of van 'n Britse kolonie, besitting of protektoraat, of na die diens van 'n provinsiale administrasie, die administrasie van die mandaatgebied, die spoorweg-administrasie, 'n departement van opvoeding, 'n inrigting vir hoër onderwys, die Land- en Landboubank van Suid-Afrika, of 'n raad of inrigting of liggaam by wet ingestel, word die afkoopwaarde van sy bydraes volgens die tafels bereken uitbetaal.

Bydraes by oorplasing of tydelike oorplasing.

(2) 'n Lid wat tydelik oorgeplaas word na die diens van 'n in sub-artikel (1) bedoelde Regering, administrasie, departement, bank, raad, inrigting of liggaam, gaan, onderwyl hy aldus oorgeplaas is, voort om tot die fonds by te dra op 'n bedrag, nie minder as sy pensioengewende verdienste onmiddellik voor die datum van die tydelike oorplasing nie, wat deur die Tesourie vasgestel moet word, en die bedrag aldus vasgestel word vir die doeleindes van hierdie Hoofstuk geag sy pensioengewende verdienste gedurende die tydperk van tydelike oorplasing te wees.

59. Elke getroude lid moet aan die Tesourie bewys voorlê van sy huwelik en van die ouderdom van sy eggenote. Geen voordeel ingevolge hierdie Hoofstuk word uitbetaal tensy sodanige bewys gelewer is nie.

Bewys van huwelik en van ouderdom van eggenote.

60. (1) Die bates en laste van die fonds op die een-en-dertigste dag van Maart 1938, en elke vyf jaar daarna, word deur 'n aktuaris gewaardeer, en hy moet die oorskot of tekort wat daarin voorkom, vasstel, en 'n rapport dienaangaande by die Minister van Finansies indien.

Vyfjaarlikse waardering van fonds.

(2) Indien die aktuaris in bedoelde rapport sertifiseer dat daar 'n aansienlike oorskot of dat daar 'n aansienlike tekort is, word die voordele uit die fonds betaalbaar of sommige van daardie voordele, na gelang van die geval, verhoog of verminder tot so 'n mate en vanaf so 'n datum as wat die Minister van Finansies op aanbeveling van die aktuaris mag bepaal: Met dien verstande dat 'n reeds toegekende voordeel nie verminder word nie.

(3) The provisions of sub-sections (2) and (4) of section *thirty-four* shall apply in respect of the report of the actuary and any decision under sub-section (2).

Application of sections 33 and 35 in respect of the fund.

61. The provisions of sections *thirty-three* and *thirty-five* shall *mutatis mutandis* apply in respect of the fund.

CHAPTER VI.

GOVERNMENT EMPLOYEES' PROVIDENT FUND.

Interpretation of terms used in this Chapter.

62. In this Chapter, unless inconsistent with the context—
 “contingency account” means the contingency account referred to in section *sixty-nine* ;
 “contributions” means the amounts, other than interest, paid by a member to the fund ;
 “fixed date” means the date fixed by the Governor-General under section *sixty-three* ;
 “full benefit” with reference to a member or his dependants, means the aggregate of the amounts paid into the fund by and in respect of the member, together with interest at the rate of four per cent. per annum on the said aggregate, compounded annually on the thirty-first day of March, and calculated according to the dates upon which the said amounts were paid, and up to the date upon which the benefit is paid ;
 “fund” means the Government employees' provident fund established under section *sixty-three* ;
 “member” means a contributor to the fund and includes—
 (a) a person who is on leave of absence or in the case of a person to whom leave of absence cannot be granted under the regulations made under the Public Service Act, who is absent from duty, and who was a contributor immediately prior to such leave or absence ; and
 (b) a person who ceased to be a contributor on attaining the pensionable age, but who has not retired or been retired from the service of the Government ;
 “pensionable age” means, in the case of male members, sixty years, and in the case of female members, fifty-five years.

Establishment of Government employees provident fund.

63. (1) As from a date to be fixed by the Governor-General by proclamation in the *Gazette*, there shall be established a fund to be called the “Government employees' provident fund” which shall consist of—
 (a) the contributions made to the fund by members ;
 (b) the amounts paid to the fund out of revenue ; and
 (c) any other amounts which are to be credited to the fund.

(2) All benefits payable under this Chapter shall, except where otherwise provided, be paid out of the fund.

Contributions by members.

64. As from the fixed date every European employed by the Government to whom, in terms of the provisions of this Act other than the provisions contained in this Chapter or in terms of any other law, no benefit is payable upon retirement or discharge, shall, subject to the provisions of section *sixty-five* and to the approval of the Treasury, contribute to the fund at the rate of three per cent. of his pensionable emoluments, until he reaches the pensionable age.

Disqualifications to be a member.

65. No person shall be allowed to contribute to the fund—
 (a) while under the age of sixteen years ;
 (b) if he receives pensionable emoluments at a rate of less than ninety pounds per annum ;
 (c) until he has had two years' continuous employment unless—
 (i) he has been transferred from other pensionable employment to employment in respect of which he is liable to contribute to the fund ; or
 (ii) he was previously a member ;
 (d) if he is remunerated solely by fees or allowances ;
 (e) if his whole time is not at the disposal of the Government ; or
 (f) if he is a person who may contribute to the Union public service pension fund in terms of section *thirteen* or *fourteen*.

Collection etc. of contributions.

66. (1) Sub-sections (1), (5) and (6) of section *twenty-four* shall *mutatis mutandis* apply in respect of contributions by members.

(3) Die bepalings van sub-artikels (2) en (4) van artikel *vier-en-dertig* is van toepassing ten aansien van die rapport van die aktuaris en 'n beslissing ingevolge sub-artikel (2).

61. Die bepalings van artikels *drie-en-dertig* en *vyf-en-dertig* is *mutatis mutandis* van toepassing ten opsigte van die fonds.

Toepassing van artikels 33 en 35 ten opsigte van die fonds.

HOOFSTUK VI.

REGERINGS-WERKNEMERSONDERSTEUNINGSFONDS.

62. In hierdie Hoofstuk, tensy uit die samehang anders blyk, beteken—

Omskrywing van woorde in hierdie Hoofstuk gebesig.

„gebeurlikheidsrekening” die gebeurlikheidsrekening in artikel *nege-en-sestig* bedoel;

„bydraes” die bedraes, behalwe rente, deur 'n lid in die fonds gestort;

„vasgestelde datum” die datum deur die Goewerneur-generaal kragtens artikel *drie-en-sestig* vasgestel;

„volle voordeel”, met betrekking tot 'n lid of sy afhanklikes, die totaal van die bedrae deur en ten opsigte van die lid in die fonds gestort, met rente op daardie totaal teen die koers van vier persent per jaar, jaarliks samegestel op die een-en-dertigste dag van Maart, en bereken volgens die datums waarop daardie bedrae betaal is, en tot op die datum waarop die voordeel uitbetaal word;

„fonds” die Regerings-werknemersondersteuningsfonds kragtens artikel *drie-en-sestig* gestig;

„lid” 'n bydraer tot die fonds en tewens—

(a) iemand wat op verlof is, of in die geval van iemand aan wie verlof nie ingevolge die regulasies kragtens die „Staatsdienst Wet” uitgevaardig toegestaan kan word nie, wat afwesig is van diens, en wat onmiddellik voor die verlof of afwesigheid 'n bydraer was, en

(b) iemand wat by bereiking van die pensioenleeftyd opgehou het om 'n bydraer te wees, maar nie bedank het of afgedank is uit die diens van die Regering nie;

„pensioenleeftyd”, in die geval van manlike lede, sestig jaar, en in die geval van vroulike lede, vyf-en-vyftig jaar.

63. (1) Vanaf 'n datum deur die Goewerneur-generaal by proklamasie in die *Staatskoerant* vasgestel te word, word daar 'n fonds gestig, die „Regerings-werknemersondersteuningsfonds” genoem, wat bestaan uit—

Stigting van Regerings-werknemersondersteuningsfonds.

(a) die bydraes deur lede tot die fonds gemaak;

(b) die bedrae uit inkomste in die fonds gestort; en

(c) alle ander bedrae waarmee die fonds dien gekrediteer te word.

(2) Alle voordele ingevolge hierdie Hoofstuk betaalbaar, word, behoudens andersluidende bepalings, uit die fonds betaal.

64. Vanaf die vasgestelde datum moet elke blanke by die Regering in diens aan wie by uitdienstreding of ontslag geen voordeel ingevolge ander bepalings van hierdie Wet as die bepalings in hierdie Hoofstuk vervat, of ingevolge enige ander wet, betaalbaar is nie, met inagneming van die bepalings van artikel *vyf-en-sestig* en onderhewig aan die goedkeuring van die Tesourie, volgens die skaal van drie persent van sy pensioengewende verdienste tot die fonds bydra totdat hy die pensioenleeftyd bereik.

Bydraes deur lede.

65. Niemand word toegelaat om tot die fonds by te dra nie—

Diskwalifikasies om lid te wees.

(a) terwyl hy onder die leeftyd van sestien jaar is;

(b) indien hy pensioengewende verdienste trek volgens 'n skaal van minder as negentig pond per jaar;

(c) alvorens hy twee jaar onafgebroke diens gehad het, tensy—

(i) hy uit ander pensioengewende diens verplaas is na diens ten opsigte waarvan hy onder verpligting is om tot die fonds by te dra; of

(ii) hy tevore 'n lid was;

(d) indien hy uitsluitend met fooie of toelaes betaal word;

(e) indien al sy tyd nie ter beskikking van die Regering staan nie;

(f) indien hy iemand is wat volgens artikel *dertien* of *veertien* tot die Unie-staatsdienspensioenfonds kan bydra.

66. (1) Sub-artikels (1), (5) en (6) van artikel *vier-en-twintig* is *mutatis mutandis* van toepassing ten opsigte van bydraes van bydraes deur lede.

Insameling, ens.,

(2) A member to whom leave of absence can be granted under the regulations made under the Public Service Act, shall continue to contribute to the fund while on sick or other leave with full or less than full pay, and may elect to contribute in respect of any period of sick or other leave without pay.

(3) A member to whom leave of absence cannot be so granted may elect to contribute in respect of any period of absence without pay not exceeding ninety days, or in respect of such longer period of such absence as the Treasury may in special circumstances allow.

(4) Any contributions made under sub-section (2) or (3) shall be based upon the full pensionable emoluments of the member.

Payments from revenue to the fund.

67. As from the fixed date there shall be paid to the fund—

(a) out of revenue, at the end of each month, an amount equal to the aggregate of the contributions which have been paid to the fund by members during that month;

(b) out of the Consolidated Revenue Fund, on the thirty-first day of March in each year—

(i) interest at the rate of four per cent. per annum on the average of the uninvested amounts in the fund at the end of each month during the period in respect of which the interest is paid; and

(ii) the amount required in respect of the twelve months ending upon that date to balance the contingency account after the amount referred to in sub-section (3) of section *sixty-nine* has been debited to that account.

Investment of fund balances.

68. (1) All amounts paid to the fund shall be lodged in the Treasury to the credit of the fund.

(2) So much of the amount standing to the credit of the fund as is not required for current purposes shall be a "deposit" for the purposes of the Public Debt Commissioners Act, 1911, as amended, and shall be invested accordingly.

Contingency account.

69. (1) As from the fixed date the Treasury shall keep for the purposes of the fund, an account to be called the contingency account.

(2) There shall be placed to the credit of the contingency account—

(a) the amount by which the full benefit exceeds any amount paid to a member or his dependants in terms of this Chapter;

(b) so much of the amount by which the assets of the fund on the thirty-first day of March in any year exceeds the aggregate of the full benefits standing to the credit of members at that date, as the Treasury may determine.

(3) If the interest on deposits referred to in sub-section (2) of section *sixty-eight* is during any year less than four per cent. per annum, the amount of the deficiency shall be debited to the contingency account.

(4) If at any time the amount standing to the credit of the contingency account is, in the opinion of the Treasury, more than the present or probable future requirements for the purposes of sub-section (3), so much of the said amount as the Treasury may determine shall be paid into the Consolidated Revenue Fund.

Benefits upon retirement or discharge.

70. (1) A member who retires or is retired or discharged in circumstances other than those referred to in sub-section (2) or (3), shall be paid the full benefit.

(2) A member who—

(a) retires voluntarily before attaining the pensionable age; or

(b) is retired on account of ill-health not occasioned without his own default,

shall be paid an amount equal to fifty per cent. of the full benefit together with one per cent. of the full benefit in respect of each complete year of membership in excess of five years.

(3) A member who is discharged on account of unsatisfactory service or who resigns or is called upon to resign in order to avoid such discharge, shall, subject *mutatis mutandis* to the provisions of the second proviso to paragraphs (a) and (b) of sub-section (3) of section *twenty-one*, be refunded his own contributions.

Payments on death.

71. (1) If a member dies before his retirement from the service of the Government, the full benefit shall, subject to the provisions of sub-section (2), be paid to or for the benefit of such of his dependants as the Treasury may determine.

(2) 'n Lid aan wie verlof ingevolge die regulasies kragtens die „Staatsdienst Wet” uitgevaardig toegestaan kan word, gaan voort om tot die fonds by te dra onderwyl hy op siekte- of ander verlof met volle of minder as volle betaling is, en kan kies om ten opsigte van 'n tydperk van siekte- of ander verlof sonder betaling by te dra.

(3) 'n Lid aan wie verlof nie aldus toegestaan kan word nie, kan kies om by te dra ten opsigte van 'n tydperk van afwesigheid sonder betaling, negentig dae nie te bowe gaande nie, of ten opsigte van so 'n langer tydperk van sulke afwesigheid as wat die Tesourie onder besondere omstandighede mag toestaan.

(4) Bydraes ingevolge sub-artikel (2) of (3) gemaak, word op die volle pensioengewende verdienste van die lid gebaseer.

67. Vanaf die vasgestelde datum word daar in die fonds gestort— Bedrae uit inkomste in die fonds gestort.

(a) uit inkomste, op die end van elke maand, 'n bedrag gelyk aan die totaal van die bydraes wat gedurende daardie maand deur lede in die fonds gestort is;

(b) uit die Gekonsolideerde Inkomstefonds, op die een-en-dertigste dag van Maart in elke jaar—

(i) rente teen die koers van vier persent per jaar op die gemiddelde van die onbelegde bedrae in die fonds op die end van elke maand gedurende die tydperk ten opsigte waarvan die rente betaal word; en

(ii) die bedrag wat ten opsigte van die twaalf maande wat op daardie datum eindig nodig is om die gebeurlikheidsrekening te laat balanseer nadat die in sub-artikel (3) van artikel *negen-en-sestig* bedoelde bedrag teen daardie rekening gedebiteer is.

68. (1) Alle bedrae in die fonds gestort word op krediet van die fonds by die Tesourie inbetaal. Belegging van oorskotte in fonds.

(2) Soveel van die bedrag wat op krediet van die fonds staan as wat nie vir lopende doeleindes nodig is nie, is 'n „deposito” vir die doeleindes van die „Openbare Schuld Kommissarissen Wet, 1911”, soos gewysig, en word dienooreenkomstig belê.

69. (1) Vanaf die vasgestelde datum hou die Tesourie vir die doeleindes van die fonds 'n rekening genoem die gebeurlikheidsrekening. Gebeurlikheidsrekening.

(2) Op krediet van die gebeurlikheidsrekening word geplaas—

(a) die bedrag waarmee die volle voordeel 'n bedrag ingevolge hierdie Hoofstuk aan 'n lid of sy afhanklikes uitbetaal, te bowe gaan;

(b) soveel van die bedrag waarmee die bates van die fonds op die een-en-dertigste dag van Maart in enige jaar, die totaal van die volle voordele wat op daardie datum op krediet van lede staan, te bowe gaan, as wat die Tesourie mag bepaal.

(3) Indien die rente op deposito's in sub-artikel (2) van artikel *agt-en-sestig* bedoel gedurende enige jaar minder as vier persent per jaar bedra, word die bedrag van die tekort teen die gebeurlikheidsrekening gedebiteer.

(4) Indien die bedrag wat op krediet van die gebeurlikheidsrekening staan te eniger tyd volgens die mening van die Tesourie meer bedra as wat onmiddellik nodig is of waarskynlik in die toekoms nodig sal wees vir die doeleindes van sub-artikel (3), word soveel van daardie bedrag as wat die Tesourie mag bepaal in die Gekonsolideerde Inkomstefonds gestort.

70. (1) Aan 'n lid wat aftree of afgedank of ontslaan word onder ander omstandighede as dié in sub-artikel (2) of (3) vermeld, word die volle voordeel uitbetaal. Voordele by uitdienstreding of ontslag.

(2) Aan 'n lid wat—

(a) vrywillig aftree voordat hy die pensioenleef tyd bereik het, of

(b) afgedank word weens slegte gesondheid nie sonder sy eie toedoen veroorsaak nie,

word 'n bedrag uitbetaal gelyk aan vyftig persent van die volle voordeel benewens een persent van die volle voordeel ten opsigte van elke voltooide jaar van lidmaatskap bo vyf jaar.

(3) Aan 'n lid wat ontslaan word weens onbevredigende diens, of wat bedank of aangesê word om te bedank ten einde sodanige ontslag te vermy, word, met inagneming *mutatis mutandis* van die bepalinge van die tweede voorbehoudsbepaling van paragrawe (a) en (b) van sub-artikel (3) van artikel *een-en-twintig*, sy eie bydraes terugbetaal.

71. (1) Indien 'n lid voor sy uitreding uit die diens van die Regering te sterwe kom, word die volle voordeel, met inagneming van die bepalinge van sub-artikel (2), aan of ten bate van diegene van sy afhanklikes wat die Tesourie mag aanwys, uitbetaal. Uitbetalings by dood.

(2) The provisions of sub-section (3) of section *twenty-two* shall *mutatis mutandis* apply in respect of any such amount.

Members becoming members of other funds, and members of other funds becoming members of the fund.

72. (1) If a member—

- (a) becomes liable to contribute to the Union public service pension fund; or
- (b) is transferred to employment under the railway administration and becomes a member of the New Railways and Harbours Superannuation Fund; and
- (c) is permitted and elects to contribute to such fund in respect of the period of his continuous employment prior to the date upon which he so becomes liable or to the date of such transfer, as the case may be,

an amount not exceeding the full benefit shall be paid out of the fund to the Union public service pension fund or to the New Railway and Harbours Superannuation Fund, as the case may be: Provided that if that portion of the full benefit which represents the aggregate of the amounts paid into the fund by and in respect of such member, is less than the amount which is required, in respect of the period during which he contributed to the fund, for the purposes of the Union public service pension fund or the New Railways and Harbours Superannuation Fund, as the case may be, the deficiency shall be paid in equal shares by him and out of revenue.

(2) If a member who so becomes liable or is so transferred is not permitted so to contribute or if permitted to do so does not contribute, he may elect in writing within a period of three months from the date upon which he so becomes liable or is so transferred either—

- (a) to be dealt with in accordance with the provisions of this Chapter as if he had retired voluntarily; or
- (b) to be granted out of the fund if for any reason he retires or is retired or discharged from the public service or from service under the railway administration, as the case may be, the benefit to which he would have been entitled in terms of this Chapter at the date upon which he ceased to be a member, had he at that date retired or been retired or discharged for the same reason, together with compound interest at the rate of four per cent per annum calculated as from that date.

(3) If a member of the Union public service pension fund becomes liable to contribute to the fund, or if a person in the employ of the railway administration is transferred to employment under the Government in respect of which he is liable so to contribute, he may elect in writing within a period of three months from the date upon which he so becomes liable, to reckon the period of his pensionable service in the public service or under the railway administration, as the case may be, as pensionable employment under this Chapter, and if he elects so to reckon the said period, there shall be paid to the fund out of the Union public service pension fund or by the railway administration, as the case may be, twice the amount of his contributions together with interest, compounded annually, at the rate of five per cent. per annum, calculated according to the dates upon which the contributions were payable: Provided that if the amount so payable exceeds six per cent. of the pensionable emoluments in respect of which such contributions were made, together with interest, compounded annually, at the rate of four per cent. per annum, calculated according to the dates upon which the contributions were payable, the excess shall be dealt with in such manner as the Treasury may direct.

(4) If a member of the Union public service pension fund who so becomes liable, elects not so to reckon the period of his pensionable service in the public service, he may elect in writing within a period of three months from the date upon which he so becomes liable either—

- (a) to be dealt with in accordance with the provisions of Chapter I as if he had retired voluntarily; or
- (b) to be granted out of the said fund, if for any reason he retires or is retired or discharged from employment under the Government, the benefit to which he would have been entitled under Chapter I at the date upon which he ceased to be a member of the said fund, had he at that date retired or been retired or discharged from the public service for the same reason.

(2) Die bepalings van sub-artikel (3) van artikel twee-en-twintig is *mutatis mutandis* van toepassing ten opsigte van so 'n bedrag.

72. (1) Indien 'n lid—

- (a) onder verpligting kom om tot die Unie-staatsdienspensioenfonds by te dra, of
- (b) verplaas word na diens by die spoorweg-administrasie en 'n lid word van die „Nieuwe Spoorwegan en Havens Superannuatie Fonds”, en
- (c) toegelaat word en kies om ten opsigte van die tydperk van sy onafgebroke diens voor die datum waarop hy aldus onder verpligting kom of voor die datum van sodanige verplasing, na gelang van die geval, tot bedoelde fonds by te dra,

Lede wat lede word van ander fondse en lede van ander fondse wat lede word van die fonds.

word 'n bedrag wat die volle voordeel nie te bowe gaan nie uit die fonds in die Unie-staatsdienspensioenfonds of in die „Nieuwe Spoorwegan en Havens Superannuatie Fonds”, na gelang van die geval, gestort: Met dien verstande dat indien daardie gedeelte van die volle voordeel wat die totaal van die bedrae deur en ten opsigte van bedoelde lid in die fonds gestort, voorstel, minder is as die bedrag wat vir die doeleindes van die Unie-staatsdienspensioenfonds of die „Nieuwe Spoorwegan en Havens Superannuatie Fonds”, na gelang van die geval, ten opsigte van die tydperk gedurende welke hy tot die fonds bygedra het, nodig is, die tekort in gelyke dele deur hom en uit inkomste aangesuiwer word.

(2) Indien 'n lid wat aldus onder verpligting kom of aldus verplaas word nie toegelaat word om aldus by te dra of as hy toegelaat word om dit te doen, nie bydra nie, kan hy binne 'n tydperk van drie maande vanaf die datum waarop hy aldus onder verpligting kom of aldus verplaas word skriftelik kies of—

- (a) om ooreenkomstig die bepalings van hierdie Hoofstuk behandel te word asof hy vrywillig uit diens getree het; of
- (b) om, wanneer hy om een of ander rede aftree of afgedank of ontslaan word uit die staatsdiens of uit diens by die spoorweg-administrasie, na gelang van die geval, uit die fonds die voordeel toegeken te word waarop hy ingevolge hierdie Hoofstuk op die datum waarop hy opgehou het om lid te wees geregtig sou gewees het, as hy op daardie datum om dieselfde rede afgetree het of afgedank of ontslaan was, met samegestelde rente teen die koers van vier persent per jaar, bereken vanaf daardie datum.

(3) Indien 'n lid van die Unie-staatsdienspensioenfonds onder verpligting kom om tot die fonds by te dra, of indien iemand in diens by die spoorweg-administrasie verplaas word na diens by die Regering ten opsigte waarvan hy verplig is om aldus by te dra, kan hy binne 'n tydperk van drie maande vanaf die datum waarop hy aldus onder verpligting kom, skriftelik kies om die tydperk van sy pensioengewende diens in die staatsdiens of by die spoorweg-administrasie, na gelang van die geval, te reken as pensioengewende diens ingevolge hierdie Hoofstuk, en as hy kies om bedoelde tydperk aldus te reken, word uit die Unie-staatsdienspensioenfonds of deur die spoorweg-administrasie, na gelang van die geval, dubbel die bedrag van sy bydraes met rente, jaarliks samegestel, teen die koers van vyf persent per jaar, bereken volgens die datums waarop die bydraes betaalbaar was, in die fonds gestort: Met dien verstande dat indien die bedrag aldus betaalbaar meer bedra as ses persent van die pensioengewende verdienste ten opsigte waarvan daardie bydraes gemaak was, met rente, jaarliks samegestel, teen die koers van vier persent per jaar, bereken volgens die datums waarop die bydraes betaalbaar was, oor die te veel op sodanige wyse beskik word as wat die Tesourie mag bepaal.

(4) Indien 'n lid van die Unie-staatsdienspensioenfonds wat aldus onder verpligting kom, kies om die tydperk van sy pensioengewende diens in die staatsdiens nie aldus te reken nie, kan hy binne 'n tydperk van drie maande vanaf die datum waarop hy aldus onder verpligting kom skriftelik kies of—

- (a) om ooreenkomstig die bepalings van Hoofstuk I behandel te word asof hy vrywillig uit diens getree het; of
- (b) om, wanneer hy om een of ander rede aftree of afgedank of ontslaan word uit diens by die Regering, uit daardie fonds die voordeel toegeken te word waarop hy ingevolge Hoofstuk I op die datum waarop hy opgehou het om lid te wees van daardie fonds geregtig sou gewees het, as hy op daardie datum om dieselfde rede afgetree het of afgedank of ontslaan was uit die staatsdiens.

Period of employment to be continuous.

73. (1) The period of employment in respect of which contributions are to be made under this Chapter shall be continuous.

(2) Any such period shall not be regarded as interrupted—

(a) by absence on leave, whether with or without pay; or

(b) in the case of an employee to whom leave of absence cannot be granted under the regulations made under the Public Service Act, by absence from duty for a period not exceeding ninety days, or for such longer period as the Treasury may in special circumstances allow; or

(c) by suspension, if followed by reinstatement in the same or another office or post.

Application of sections 33 and 35.

74. The provisions of sections *thirty-three* and *thirty-five* shall *mutatis mutandis* apply in respect of the fund.

CHAPTER VII.

GENERAL AND MISCELLANEOUS.

Fuel, light and washing allowance to be pensionable.

75. (1) Notwithstanding anything in any other law contained so much of any allowance for fuel, light and washing granted to a person employed by the Government who is a contributor to a pension fund, or of the value thereof, as is declared by the Commission to be pensionable, shall be included in the pensionable emoluments of such person.

(2) This section shall be deemed to have been in operation from the first day of April, 1934.

Rights in respect of pensions not ceded or subject to execution.

76. (1) No right in respect of a pension or other benefit payable under this Act or any other law shall be capable of being ceded or of being hypothecated, and any such right shall not be liable to be attached or be subject to any form of execution under a judgment or order of a court.

(2) If any person attempts to cede or hypothecate any right in respect of any such pension or benefit to which he is entitled, payment of such pension or benefit may, if the Minister of Finance so directs, be withheld, suspended or discontinued: Provided that the Minister of Finance may direct that such pension or benefit or a part thereof be paid to one or more of the dependants of such person or to a trustee for such person or his dependants during such period as he may determine.

(3) Notwithstanding anything contained in sub-section (1) or in any other law any amount payable by any officer or employee to the Government at the date of his retirement or discharge may be deducted from the pension or other benefit to be paid to such officer or employee, in a lump sum or in such instalments as the Treasury may determine.

Annuities on sequestration or assignment.

77. If the estate of any annuitant under this Act or any other law is sequestrated or assigned, the annuity shall not form part of the assets in his insolvent or assigned estate.

Annuities on conviction.

78. (1) If any annuitant under this Act or any other law is convicted of any offence, and sentenced to death or to any term of imprisonment exceeding twelve months without the option of a fine, payment of the annuity to him shall be discontinued.

(2) The annuity or a portion thereof shall, during such annuitant's imprisonment, be paid to or for the benefit of such of his dependants and according to such allocation amongst them as the Treasury may determine.

(3) On the discharge of such annuitant from prison, the payment to him of the annuity shall be resumed and he shall also be paid any portion of his annuity which may have been withheld.

Pensions may be paid to other person than pensioner himself.

79. If the Minister of Finance is satisfied that it is undesirable for any reason to pay the whole amount of any pension payable to a person who was formerly employed by the Government or who receives a pension paid out of revenue, directly to such person himself, he may order that such pension or a portion thereof shall be paid to some other person under such conditions as to its administration for the benefit of such pensioner or his dependants as the Minister of Finance may determine.

Prescription of actions.

80. (1) No legal proceedings of any nature shall be brought against the Government, the Treasury or any Minister or Administrator in respect of anything done or omitted under this Act or any other law relating to the pensions of persons in the employ of the Government, unless such proceedings are brought before the expiry of a period of twelve months

73. (1) Die tydperk van diens ten opsigte waarvan bydraes ingevolge hierdie Hoofstuk gemaak moet word, moet onafgebroke wees. Tydperk van diens moet onafgebroke wees.

(2) So 'n tydperk word nie geag onderbreek te word nie—

(a) deur afwesigheid op verlof, hetsy met of sonder betaling, of

(b) in die geval van 'n werknemer aan wie verlof nie ingevolge die regulasies kragtens die „Staatsdiens Wet” uitgevaardig toegestaan kan word nie, deur afwesigheid van diens vir 'n tydperk wat negentig dae nie te bowe gaan nie, of vir so 'n langer tydperk as wat die Tesourie in besondere omstandighede mag toelaat, of

(c) deur skorsing, indien gevolg deur herstelling in dieselfde of 'n ander betrekking of pos.

74. Die bepalinge van artikels *drie-en-dertig* en *vyf-en-dertig* is *mutatis mutandis* van toepassing ten opsigte van die fonds. Toepassing van artikels 33 en 35.

HOOFSTUK VII.

ALGEMENE EN GEMENGDE BEPALINGS.

75. (1) Soveel van 'n toelae vir brandstof, lig en wasgoed, toegeken aan iemand in diens van die Regering wat 'n bydraer tot 'n pensioenfonds is, of van die waarde daarvan, as wat deur die Kommissie verklaar word pensioengewend te wees, word, nieteenstaande andersluidende bepalinge in enige ander wet vervat, by die pensioengewende verdienste van so 'n persoon gereken. Brandstof-, lig- en wasgoedtoelae is pensioengewend.

(2) Hierdie artikel word geag in werking te gewees het vanaf die eerste dag van April 1934.

76. (1) Geen reg ten opsigte van 'n pensioen of ander voordeel kragtens hierdie Wet of enige ander wet betaalbaar kan gesedeer of verhipotekeer word nie en so 'n reg is nie vatbaar vir beslaglegging of onderhewig aan enige vorm van eksekusie ingevolge 'n vonnis of order van 'n hof nie. Regte ten opsigte van pensioene nie sedgeerbaar of onderhewig aan eksekusie nie.

(2) Indien iemand enige reg ten opsigte van so 'n pensioen of voordeel waarop hy geregtig is poog te cedeer of te verhipotekeer, kan uitbetaling van so 'n pensioen of voordeel, indien die Minister van Finansies dit gelas, weerhou, opgeskort of gestaak word: Met dien verstande dat die Minister van Finansies kan gelas dat so 'n pensioen of voordeel of 'n gedeelte daarvan aan een of meer van die afhanklikes van so iemand of aan 'n kurator ten behoewe van so iemand of sy afhanklikes betaal word gedurende so 'n tydperk as wat hy mag vasstel.

(3) 'n Bedrag deur 'n beampste of werknemer op die datum van sy uitdienstreding of ontslag aan die Regering betaalbaar, kan, nieteenstaande die bepalinge in sub-artikel (1) of in enige ander wet vervat, in één bedrag of in sulke paaielemente as wat die Tesourie mag bepaal, afgetrek word van die pensioen of ander voordeel wat aan so 'n beampste of werknemer betaal moet word.

77. Indien die boedel van iemand wat ingevolge hierdie Wet of enige ander wet 'n jaargeld trek, gesekwestreer of afgestaan word, maak die jaargeld nie deel uit van die bates in sy insolvente of afgestane boedel nie. Jaargelde by sekwestrasie of boedelafstand.

78. (1) Indien iemand wat kragtens hierdie Wet of enige ander wet 'n jaargeld trek, skuldig gevind word aan 'n misdryf en tot die dood of tot 'n tydperk van gevangenisstraf van meer as twaalf maande sonder keuse van 'n boete veroordeel word, word uitbetaling van die jaargeld aan hom gestaak. Jaargelde by skuldigbevinding.

(2) Die jaargeld of 'n gedeelte daarvan word gedurende so 'n jaargeldtrekker se gevangenskap uitbetaal aan of ten bate van sodanige van sy afhanklikes en volgens sodanige toewysing onder hul as wat die Tesourie mag bepaal.

(3) Wanneer so 'n jaargeldtrekker uit die gevangenis ontslaan word, word uitbetaling van die jaargeld aan hom hervat, en word hom ook enige gedeelte van sy jaargeld wat teruggehou mog gewees het, uitbetaal.

79. Indien die Minister van Finansies oortuig is dat dit om een of ander rede onwenslik is om die hele bedrag van 'n pensioen wat betaalbaar is aan iemand wat tevore in diens van die Regering was of wat 'n pensioen uit inkomste ontvang, direk aan so iemand self uit te betaal, kan hy gelas dat daardie pensioen of 'n gedeelte daarvan, op sulke voorwaardes wat betref die beheer daarvan ten bate van so 'n pensioentrekker of sy afhanklikes as wat die Minister van Finansies mag bepaal, uitbetaal word aan een of ander ander persoon. Pensioene kan aan iemand anders as pensioentrekker self uitbetaal word.

80. (1) Geen regsgeeding van welke aard ook word teen die Regering, die Tesourie of 'n Minister of administrateur ingestel ten opsigte van enigiets ingevolge hierdie Wet of enige ander wet betreffende die pensioene van persone in die diens van die Regering, gedaan of versuim nie, tensy daardie stappe ingestel word voor verloop van 'n tydperk van twaalf Verjaring van vorderingsregte.

as from the date upon which the claimant had knowledge or could reasonably have had knowledge of the act or omission alleged or, in the case of any such proceedings brought under any such other law which has been in force from a date prior to the establishment of the Union, before the expiry of the said period, or before the expiry of a period of twelve months as from the commencement of this Act, whichever period may expire later.

(2) No such proceedings shall be commenced until one month after written notice of the intention to bring such proceedings has been served on the Minister, Administrator or officer concerned. Particulars as to the alleged act or omission shall be clearly and explicitly given in such notice.

Regulations.

81. (1) The Governor-General may make regulations as to—

- (a) the method of calculating for the purpose of determining the pensionable emoluments of any officer under this Act or any other law relating to the pensions of persons in the employ of the Government, the value of any free rations, quarters, fuel, light or washing;
- (b) the form and manner in which the accounts of any pension fund under this Act or such other law shall be kept;
- (c) any matter which under this Act is required or permitted to be prescribed;

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

(2) Different regulations may be made in respect of different pension funds and different classes of contributors to such funds.

(3) All regulations made under any law repealed by this Act which are in force immediately prior to the commencement of this Act shall, so far as they apply to matters dealt with under this Act and are not inconsistent therewith, be deemed to be regulations made under this section.

Application of Act.

82. (1) The provisions of Chapter I shall not apply to any member of the services who was appointed to the services on or after the thirty-first day of May, 1910, and before the first day of October, 1911, in the case of subordinate officers of the Prisons Department, and on or after the thirty-first day of May, 1910, and before the first day of April, 1913, in the case of all other members of the services. Any such member shall in respect of pension be subject to the same laws and regulations as members who were appointed to the services prior to the thirty-first day of May, 1910.

(2) Any person previously employed by the Government who retired or was retired or discharged on or after the fixed date and before the date of commencement of this Act may elect, within a period of six months from the latter date, to receive, in lieu of the benefit payable to him under any other law at the date of his retirement or discharge and upon such conditions as to the payment by him of any amount to the appropriate fund or the repayment by him of any portion of the amount paid to him in pursuance of the commutation of an annuity, as the Treasury may determine, the benefits which would have been payable to him had this Act been in operation as from the fixed date and had he, in the case of a person to whom section *four* or section *nine* would apply, elected to be a new member or to receive the benefits specified in sub-section (2) of section *nine*, as the case may be.

Interpretation of terms.

83. In this Act, unless inconsistent with the context, any expression not defined in this Act to which in the Public Service Act a meaning has been assigned bears, when used in this Act, the same meaning, and, except where specially defined—

“actuary” means a Fellow of the Institute of Actuaries of London or the Faculty of Actuaries in Scotland or any other person recognized as an actuary by the Governor-General;

“annuity” means an amount which is payable each year during the lifetime of the beneficiary;

“dependant” means, in relation to any person—

(a) the widow or a minor child or stepchild of such person; or

(b) any other relative or person dependent upon such person for maintenance;

“fixed date” means the first day of April, 1936;

“institution for higher education” means an institution for higher education in terms of section *eleven* of

maande vanaf die datum waarop die eiser die beweerde daad of versuim te wete gekom het of redelikerwyse daarvan kon geweet het, of in die geval van sulke stappe ingestel ingevolge so 'n ander wet wat vanaf 'n datum voor die totstandkoming van die Unie van krag is, voor verloop van bedoelde tydperk of van 'n tydperk van twaalf maande vanaf die inwerking-treding van hierdie Wet, na gelang die een of die ander tydperk die laaste verstryk.

(2) Geen sodanige geding word aanhangig gemaak nie voordat 'n maand verloop het vanaf diening op die betrokke Minister, administrateur of beamppte van skriftelike kennis-gewing van die voorneme om so 'n geding in te stel. Besonder-hede ontrent die beweerde daad of versuim moet duidelik en uitdruklik in bedoelde kennisgewing aangegee word.

81. (1) Die Goewerneur-generaal kan regulasies uitvaardig **Regulasies.** wat betref—

- (a) die wyse waarop, ten einde die pensioengewende verdienste van 'n beamppte ingevolge hierdie Wet of enige ander wet betreffende die pensioene van persone in diens van die Regering vas te stel, die waarde van enige vry rantsoene, woning, brandstof, lig of wasgoed bereken moet word;
- (b) die vorm waarin en die wyse waarop die boeke van 'n pensioenfonds ingevolge hierdie Wet of so 'n ander wet gehou moet word;
- (c) enige aangeleentheid wat volgens hierdie Wet moet of kan voorgeskryf word;

en oor die algemeen vir die betere uitvoering van die oogmerke en doeleindes van hierdie Wet.

(2) Verskillende regulasies kan uitgevaardig word ten opsigte van verskillende pensioenfondse en verskillende kate-gorieë van bydraers tot sulke fondse.

(3) Alle regulasies uitgevaardig kragtens 'n wet wat deur hierdie Wet herroep word en van krag onmiddellik voor die inwerkingtreding van hierdie Wet word, vir sover hul van toepassing is op sake waarvoor hierdie Wet handel en nie onbe-staanbaar is daarmee nie, geag regulasies te wees kragtens hierdie artikel uitgevaardig.

82. (1) Die bepalinge van Hoofstuk I is nie van toepassing **Toepassing van** op 'n lid van die dienste wat, in die geval van ondergeskikte **hierdie Wet.** beamptes in die Departement van Gevangenis, op of na die een-en-dertigste dag van Mei 1910, en voor die eerste dag van Oktober 1911, en in die geval van alle ander lede van die dienste, op of na die een-en-dertigste dag van Mei 1910, en voor die eerste dag van April 1913, in die dienste aangestel is nie. So 'n lid val wat pensioen betref onder dieselfde wette en regu-lasies as lede wat voor die een-en-dertigste dag van Mei 1910, in die dienste aangestel is.

(2) Enig iemand voorheen in diens van die Regering wat op of na die vasgestelde datum en voor die datum van die inwerkingtreding van hierdie Wet afgetree het of afge-dank of ontslaan was kan binne 'n tydperk van ses maande vanaf laasgenoemde datum kies om, in plaas van die voor-deel ingevolge enige ander wet op die datum van sy uitdiens-treding of ontslag aan hom betaalbaar en op sulke voorwaarde wat betref die storting deur hom van 'n bedrag in die aange-wese fonds of die terugbetaling deur hom van 'n gedeelte van die bedrag aan hom uitbetaal ingevolge die omsetting van 'n jaargeld, as wat die Tesourie mag bepaal, die voordele te ont-vang wat aan hom betaalbaar sou gewees het as hierdie Wet vanaf die vasgestelde datum in werking was en as hy, in die geval van iemand op wie artikel vier of artikel nege van toe-passing sou wees, gekies het om, na gelang van die geval, 'n nuwe lid te wees of om die in sub-artikel (2) van artikel nege bedoelde voordele te ontvang.

83. In hierdie Wet het, tensy uit die samehang anders blyk, **Woordbepaling.** 'n uitdrukking wat nie in hierdie Wet omskryf word nie en waaraan in die „Staatsdienst Wet” 'n betekenis toegeken is, wanneer dit in hierdie Wet gebesig word, dieselfde betekenis, en beteken, behalwe waar dit spesiaal omskryf word—

„aktuaris” 'n lid van die „Institute of Actuaries” te Londen of van die „Faculty of Actuaries” in Skotland, of 'n ander persoon wat deur die Goewerneur-generaal as aktuaris erken word;

„jaargeld” 'n bedrag wat elke jaar gedurende die lewe van die bevoordeelde betaalbaar is;

„afhanklike”, met betrekking tot 'n persoon—

(a) die weduwee of 'n minderjarige kind of stief-kind van daardie persoon; of

(b) 'n ander familiebetrekking of persoon wat van so 'n persoon afhanklik is vir onderhoud;

„vasgestelde datum” die eerste dag van April 1936;

„inrigting vir hoër onderwys” 'n inrigting vir hoër onder-wys volgens artikel elf van die „Finansiële Ver-

the Financial Relations Fourth Extension Act, 1922, as amended;

“pension” means an annuity, gratuity or other benefit;

“pensionable age” means—

(a) in the case of male members other than members of the services, sixty years;

(b) in the case of male members who are members of the services, fifty-five years; and

(c) in the case of female members, fifty-five years;

“pensionable emoluments” includes—

(1) a member's pay and any special allowance attached to a particular office if such allowance be declared by the Commission to be pensionable;

(2) so much of any personal allowance granted to a member in consideration of his pay being reduced otherwise than as a penalty, or of any ration allowance or the value of free rations, or of any allowance for quarters or the value of free quarters not exceeding one-sixth of the member's other pensionable emoluments, or of any fuel, light or washing allowance or the value of free fuel, light or washing, as is declared by the Commission to be pensionable,

but does not include—

(i) any local allowance for the cost of living, or a climatic allowance;

(ii) any special remuneration which a member may receive for performing special duties or while acting in any office;

(iii) any transport or subsistence allowance;

(iv) any fees, honoraria, or bonuses of any kind;

(v) any overtime payments; or

(vi) any other allowances not herein specified;

“pensionable service” means pensionable service according to the provisions of section *twenty-three*;

“public service” means the public service according to the provisions of section *one* of the Public Service Act;

“the Public Service Act” means the Public Service Act, 1923 (Act No. 27 of 1923), as amended;

“revenue” means the Consolidated Revenue Fund or, in respect of officers serving under or persons retired or discharged from service under a provincial administration, the provincial revenue fund of the province concerned or, in respect of officers serving under or persons retired or discharged from service under the administration of the mandated territory, the Territory Revenue Fund established under section *thirty-six* of the South-West Africa Constitution Act, 1925;

“regulation” means a regulation made under this Act;

“this Act” includes the regulations;

“Treasury” means the Minister of Finance or any officer in the Department of Finance authorized by the said Minister to perform the functions assigned to the Treasury in this Act.

Repeal and amendment of laws.

84. The laws mentioned in the Schedule to this Act are hereby repealed or amended to the extent set out in the fourth column of that Schedule: Provided that—

(a) an application for commutation of an annuity or portion thereof made by a person retired or discharged under the Public Service Act prior to the commencement of this Act, shall, subject to the provisions of sub-section (2) of section *eighty-two*, be considered and disposed of as if the provisions of sections *sixty-one* and *sixty-two* of that Act had not been repealed;

(b) if any person who was retired or discharged on an annuity under the Public Service Act prior to the date of commencement of this Act, dies after that date but within five years of the date of his retirement or discharge, the relative provisions of sections *forty* and *fifty-two* of that Act shall apply notwithstanding their repeal;

(c) the repeal of section *sixty-nine* of the Public Service Act shall not affect the validity of any matter validated by that section.

Short title.

85. This Act shall be called the Government Service Pensions Act, 1936.

houdingen Vierde Verlengings Wet, 1922", soos gewysig ;
 „pensioen" 'n jaargeld, gratifikasie of ander voordeel ;
 „pensioenleeftyd"—

- (a) in die geval van manlike lede, behalwe lede van die dienste, sestig jaar ;
- (b) in die geval van manlike lede wat lede van die dienste is, vyf-en-vyftig jaar ; en
- (c) in die geval van vroulike lede, vyf-en-vyftig jaar ;

„pensioengewende verdienste" tewens—

- (1) 'n lid se besoldiging en 'n spesiale toelae aan 'n bepaalde betrekking verbonde as daardie toelae deur die Kommissie verklaar word pensioengewend te wees ;
- (2) soveel van 'n persoonlike toelae aan 'n lid toegeken as vergoeding vir die vermindering van sy besoldiging om 'n ander rede as strafoplegging, of van 'n rantsoentoelae of die waarde van vry rantsoene, of van 'n woningtoelae of die waarde van vry woning, een-sesde van die lid se ander pensioengewende verdienste nie te bowe gaande nie, of van 'n brandstof-, lig- of wasgoedtoelae of die waarde van vry brandstof, lig of wasgoed, as wat deur die Kommissie verklaar word pensioengewend te wees,

maar omvat nie—

- (i) 'n plaaslike toelae vir lewenskoste of 'n klimaats-toelae ;
- (ii) 'n spesiale besoldiging wat 'n lid mog ontvang vir die vervulling van besondere pligte of terwyl hy 'n betrekking waarneem ;
- (iii) 'n reis- of onderhoudstoelae ;
- (iv) foole, honoraria of bonusse van welke aard ook ;
- (v) vergoeding vir oortydwerk ;
- (vi) enige ander toelae nie hierin vermeld nie ;

„pensioengewende diens" pensioengewende diens volgens die bepaling van artikel *drie-en-twintig* ;

„staatsdiens" die staatsdiens volgens die bepaling van artikel *een* van die „Staatsdiens Wet" ;

„die Staatsdiens Wet" die „Staatsdiens Wet, 1923" (Wet No. 27 van 1923), soos gewysig ;

„inkomste" die Gekonsolideerde Inkomstefonds of, met betrekking tot beamptes in diens by of persone wat uitgetree het of ontslaan is uit die diens van 'n provinsiale administrasie, die provinsiale inkomstefonds van die betrokke provinsie of, met betrekking tot beamptes in diens by of persone wat uitgetree het of ontslaan is uit die diens van die administrasie van die mandaatgebied, die Inkomstefonds van die gebied kragtens artikel *ses-en-dertig* van die „Zuid-west-Afrika Konstitutie Wet, 1925", gestig ;

„regulasie" 'n regulasie kragtens hierdie Wet uitgevaardig ;

„hierdie Wet" ook die regulasies ;

„Tesourie" die Minister van Finansies of enige beampte in die Departement van Finansies wat deur bedoelde Minister gemagtig is om die werksaamhede te verrig wat in hierdie Wet aan die Tesourie opgedra word.

84. Die wette in die Bylae van hierdie Wet vermeld word hiermee herroep of gewysig soas in die vierde kolom van daardie Bylae aangetoon : Met dien verstande dat—

Herroeping en wysiging van wette.

- (a) 'n aansoek vir omsetting van 'n jaargeld of 'n gedeelte daarvan gedoen deur iemand wat voor die inwerking-treding van hierdie Wet kragtens die „Staatsdiens Wet" uit diens getree het of ontslaan was, met inagneming van die bepaling van sub-artikel (2) van artikel *twee-en-tagtig*, oorweeg en afgehandel word asof die bepaling van artikels *een-en-sestig* en *twee-en-sestig* van daardie Wet nie herroep is nie ;
- (b) indien iemand wat voor die datum van die inwerking-treding van hierdie Wet kragtens die „Staatsdiens Wet" met 'n jaargeld uit diens getree het of ontslaan is, na daardie datum maar binne vyf jaar vanaf die datum van sy uitdienstreding of ontslag te sterwe kom, die in verband staande bepaling van artikels *veertig* en *twee-en-vyftig* van daardie wet nieteenstaande hul herroeping van toepassing is ;
- (c) die herroeping van artikel *negen-en-sestig* van die „Staatsdiens Wet" die geldigheid van enigiets deur daardie artikel gewettig nie beïnvloed nie.

85. Hierdie Wet heet die Regeringsdiens Pensioenwet, 1936. Kort titel.

Schedule.

LAWS REPEALED OR AMENDED.

| Province or Union. | Number and year of law. | Short title of law. | Extent of repeal or amendment. |
|----------------------|---------------------------|---|--|
| Cape of Good Hope. | Act No. 32 of 1895. | Civil Service and Pensions Funds Act, 1895. | <p>The insertion in section <i>twenty-five</i> after the words "sixty years" of the words "or if such person (not being a person employed by the railway administration) consents thereto and the Public Service Commission appointed under the Public Service Act, 1923, so recommends, who shall have attained the age of fifty-five years,".</p> <p>The substitution in section <i>twenty-eight</i> for the words "sixty years of age, or in the case of telegraphists, engine drivers, firemen, guards and shunters, who shall be under fifty years of age," of the words "an age at which he can be retired,".</p> <p>The substitution in section <i>thirty-six</i> for the words "the age of sixty years, or in the case of a telegraphist, engine driver, fireman, guard or shunter, before he shall have attained the age of fifty years, shall, until he has attained the age of sixty or fifty years as the case may be," of the words "an age at which he can be retired, shall, until he has attained such age,".</p> <p>The deletion in section <i>sixty-two</i> of all the words after the word "therefrom".</p> |
| Orange River Colony. | Ordinance No. 23 of 1904. | Pensions Ordinance, 1904. | <p>The substitution in section <i>seven</i> for the words "of sixty years" of the words "at which he can be retired".</p> <p>The insertion in section <i>nine</i> after the words "sixty years", where they occur for the first time, of the words "or if such officer consents thereto and the Public Service Commission appointed under the Public Service Act, 1923, so recommends, at any time after he attains the age of fifty-five years."</p> |
| Union .. | Act No. 27 of 1923. | Public Service Act, 1923. | <p>The repeal of sections <i>twenty-two</i> to <i>ninety-one</i> (inclusive), the deletion of paragraph (g) of sub-section (1) of section <i>ninety-eight</i>, the deletion of the proviso to sub-section (1), and the repeal of sub-section (2) of section <i>ninety-nine</i>, the</p> |

Bylae.

HERROEPE OF GEWYSIGDE WETTE.

| Provinsie of Unie. | Nommer en jaar van Wet. | Kort titel van Wet. | In hoever herroep of gewysig. |
|-----------------------|-----------------------------|---|---|
| Kaap die Goeie Hoop. | Wet No. 32 van 1895. | „Civil Service and Pensions Funds Act, 1895”. | Die invoeging in artikel <i>vyf-en-twintig</i> na die woorde „sixty years” van die woorde „or if such person (not being a person employed by the railway administration) consents thereto and the Public Service Commission appointed under the Public Service Act, 1923, so recommends, who shall have attained the age of fifty-five years.” Die vervanging in artikel <i>agt-en-twintig</i> van die woorde „sixty years of age, or in the case of telegraphists, engine drivers, firemen, guards and shunters, who shall be under fifty years of age” deur die woorde „an age at which he can be retired.” Die vervanging in artikel <i>ses-en-dertig</i> van die woorde „the age of sixty years, or in the case of a telegraphist, engine driver, fireman, guard or shunter, before he shall have attained the age of fifty years, shall, until he has attained the age of sixty or fifty years as the case may be,” deur die woorde „an age at which he can be retired, shall, until he has attained such age.” Die skraping in artikel <i>twee-en-sestig</i> van al die woorde na die woord „therefrom”. |
| Oranje-Rivierkolonie. | Ordonnansie No. 23 van 1904 | „Pensions Ordinance, 1904”. | Die vervanging in artikel <i>sewe</i> van die woorde „of sixty years” deur die woorde „at which he can be retired.” Die invoeging in artikel <i>nege</i> na die woorde „sixty years” waar hul die eerste maal voorkom, van die woorde „or if such officer consents thereto and the Public Service Commission appointed under the Public Service Act, 1923, so recommends, at any time after he attains the age of fifty-five years”. |
| Unie | Wet No. 27 van 1923. | „Staatsdienst Wet, 1923”. | Die herroeping van artikels <i>twee-en-twintig</i> tot en met <i>een-en-negentig</i> , die skraping van paragraaf (g) van sub-artikel (1) van artikel <i>agt-en-negentig</i> , die skraping van die voorbehoudsbepaling van sub-artikel (1) en die herroeping van sub-artikel (2) van artikel <i>nege-en-negentig</i> , die skrap- |

| Province or Union. | Number and year of law. | Short title of law. | Extent of repeal or amendment. |
|--------------------|-------------------------|--|--|
| Union .. | Act No. 27 of 1923. | Public Service Act, 1923 | deletion of the definitions of "annuity", "pension" and "revenue" in section <i>one hundred and one</i> , of the words "except in Chapter III where it is specially defined" from the definition of "officer" in the said section, and of the words "and Pensions" in section <i>one hundred and three</i> . |
| " .. | Act No. 36 of 1924. | Financial Adjustments Act, 1924. | The repeal of section <i>seven</i> . |
| " .. | Act No. 43 of 1925. | Financial Adjustments Act, 1925 | The repeal of sections <i>five</i> and <i>six</i> , the deletion of paragraph (b) of sub-section (1) of section <i>seven</i> , and the repeal of sections <i>eight</i> and <i>nine</i> . |
| " .. | Act No. 27 of 1927. | Financial Adjustments Act, 1927. | The repeal of sections <i>nine</i> to <i>fourteen</i> (inclusive). |
| " .. | Act No. 27 of 1929. | Financial Adjustments Act, 1929. | The repeal of sections <i>four</i> and <i>seven</i> . |
| " .. | Act No. 34 of 1930. | Financial Adjustments Act, 1930. | The repeal of section <i>five</i> in so far as it affects any person therein referred to who has been retired from the service of the Government. |
| " .. | Act No. 45 of 1931. | Financial Adjustments Act, 1931. | The repeal of section <i>six</i> . |
| " .. | Act No. 56 of 1934. | Public Service Pensions Amendment Act, 1934. | The repeal of the whole. |

| Provinsie of Unie. | Nommer en jaar van Wet. | Kort titel van Wet. | In hoever herroep of gewysig. |
|--------------------|-------------------------|---|--|
| Unie .. | Wet No. 27 van 1923. | „Staatsdienst Wet, 1923” | ping van die omskrywings van „jaargeld”, „pensioen” en „inkomsten” in artikel <i>honderd-en-een</i> , van die woorde „behalwe in Hoofstuk III waar het spesiaal gedefinieerd is” uit die omskrywing van „beambte” in daardie artikel, en van die woorde „en Pensioen” in artikel <i>honderd-endrie</i> . |
| „ | Wet No. 36 van 1924. | „Finansiële Regelings Wet, 1924”. | Die herroeping van artikel <i>sewe</i> . |
| „ | Wet No. 43 van 1925. | „Finansiële Regelings Wet, 1925”. | Die herroeping van artikels <i>vyf</i> en <i>ses</i> , die skraping van paragraaf <i>(b)</i> van sub-artikel <i>(1)</i> van artikel <i>sewe</i> , en die herroeping van artikels <i>aght</i> en <i>nege</i> . |
| „ | Wet No. 27 van 1927. | Finansiële Reëlingswet, 1927. | Die herroeping van artikels <i>nege</i> tot en met <i>veertien</i> . |
| „ | Wet No. 27 van 1929. | Finansiële Reëlingswet, 1929. | Die herroeping van artikels <i>vier</i> en <i>sewe</i> . |
| „ | Wet No. 34 van 1930. | Finansiële Reëlingswet, 1930. | Die herroeping van artikel <i>vyf</i> vir sover dit persone daarin bedoel wat uit die diens van die Regering afgedank is, raak. |
| „ | Wet No. 45 van 1931. | Finansiële Reëlingswet, 1931. | Die herroeping van artikel <i>ses</i> . |
| „ | Wet No. 56 van 1934. | Staatsdienspensioen Wysigingswet, 1934. | Die herroeping van die geheel. |

No. 33, 1936.]

ACT

To repeal specifically those laws of the Orange Free State Republic and the Orange River Colony which have been repealed otherwise than specifically or which are no longer required.

Preamble.

WHEREAS certain laws of the Orange Free State Republic and of the Orange River Colony have been repealed otherwise than specifically and it is desirable to repeal such laws specifically:

And whereas, by lapse of time or otherwise, certain laws of the Orange Free State Republic and of the Orange River Colony have become unnecessary and should be repealed:

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

Repeal of certain Orange Free State laws.

1. The laws of the Orange Free State Republic and of the Orange River Colony specified in the Schedule to this Act are hereby repealed to the extent set forth in the third column thereof.

Savings.

2. Nothing in this Act shall—

- (a) affect the previous operation of any law repealed hereby or anything duly done or suffered under any law so repealed;
- (b) affect any right, privilege, obligation or liability acquired, accrued or incurred under any law so repealed;
- (c) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against any law so repealed;
- (d) affect any question whether—
 - (i) any law not expressly repealed by this Act has in fact been repealed; or
 - (ii) any law expressly repealed by this Act was in fact in force at the commencement of this Act;
- (e) deprive any person of any of the benefits conferred upon him by any indemnity Act repealed hereby.

Short title.

3. This Act shall be called the Orange Free State Statute Law Revision Act, 1936.

Schedule.

| Number and Date of Law. | Title or Subject of Law. | Extent of Repeal. |
|----------------------------|---------------------------------|--|
| Law Book : Chapter XXIX | Districts and Wards . . | The whole. |
| Chapter XXXV | Apprenticing Coloured Children. | The whole. |
| Chapter LII . . | Public Libraries | The whole. |
| Chapter LXIX . . | Quit Rents | Sections one to eight inclusive; in section nine all words from the word "alle" to the word "dat" where that word appears for the second time and the word "dat" where that word appears for the third time; sections ten, eleven and twelve; in section thirteen the words "zoo gewone als extra"; and section sixteen. |

No. 33, 1936.]

WET

Om daardie wette van die Republiek Oranje-Vrystaat en die Oranjerivier-kolonie wat by herroeping nie nader bepaal is nie, of wat onnodig geword het, uitdruklik te herroep.

NADEMAAL sekere wette van die Republiek Oranje-Vrystaat en van die Oranjerivier-Kolonie herroep is sonder om nader bepaal te word en dit wenslik is om bedoelde wette uitdruklik te herroep: Aanhef.

En nademaal sekere wette van die Republiek Oranje-Vrystaat en van die Oranjerivier-Kolonie deur verloop van tyd of andersins onnodig geword het en herroep behoort te word:

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

1. Die wette van die Republiek Oranje-Vrystaat en van die Oranjerivier-Kolonie vermeld in die Bylae tot hierdie Wet, word hierby herroep vir sover die derde kolom van genoemde Bylae aandui. Herroeping van sekere Oranje-Vrystaatse wette.

2. Hierdie Wet— Voorbehoud.

- (a) is van geen invloed op die vroeëre uitwerking van 'n hierby herroepde Wet of op iets wat ingevolge 'n aldus herroepde wet behoorlik verrig of toegelaat is;
- (b) is van geen invloed op 'n reg, voorreg, verpligting of aanspreeklikheid ingevolge 'n aldus herroepde wet verkry of aangegaan;
- (c) is van geen invloed op 'n boete, verbeurdverklaring of straf wat weens 'n vergryp teen 'n aldus herroepde wet verdien is;
- (d) is van geen invloed op die vraag—
 - (i) of 'n wet wat nie uitdruklik deur hierdie Wet herroep word nie, inderdaad herroep is;
 - (ii) of 'n uitdruklik deur hierdie Wet herroepde wet inderdaad by die inwerkingtreding van hierdie Wet regsgeldig was;
- (e) ontnem aan niemand 'n voordeel wat aan hom verleen is deur 'n indenniteitswet wat deur hierdie Wet herroep word.

3. Hierdie Wet heet die Wet tot Hersiening van die Oranje-Vrystaatse Wette, 1936. Kort titel

Bylae.

| Nommer en datum van wet. | Titel of onderwerp van wet. | Omvang van herroeping. |
|---------------------------------|---|--|
| Wetboek : Hoofdstuk XXIX. | Districten en Wijken .. | Die geheel. |
| Hoofdstuk XXXV. | Apprenticeeren van Kleurlingen-kinderen. | Die geheel. |
| Hoofdstuk LII | Publieke Boekerijen .. | Die geheel. |
| Hoofdstuk LXIX | Recognitie | Artikels een tot en met <i>agt</i> ; in artikel <i>nege</i> alle woorde van die woord „alle” tot die woord „dat” waar gemelde woord vir die tweede maal voorkom, en die woord „dat” waar gemelde woord vir die derde maal voorkom; artikels <i>tien</i> , <i>elf</i> en <i>twaalf</i> ; in artikel <i>dertien</i> die woorde „zo gewone als extra” en artikel <i>sestien</i> . |

| Number and Date of Law. | Title or Subject of Law. | Extent of Repeal. |
|-------------------------|--|---|
| Chapter LXXXIII. | Pont Traffic | The whole. |
| Chapter LXXXVI. | Samples at Market Sales | The whole. |
| Chapter XCIV | Lunatics and Sick paupers. | Part II. |
| Chapter CI .. | The Articles of Association of the National Bank. | The whole. |
| Chapter CVI .. | Notarial Deeds Passed before Landdrosts. | The whole. |
| Chapter CXXXIII. | Law to provide against Stock Thefts, Vagrancy, and the Congregation of Coloured Squatters. | Sections <i>thirty-three, thirty-four, thirty-five, forty-two to fifty-one inclusive, and fifty-three</i> ; and Schedules A and C. |
| Chapter CXXXIX. | Treason | The whole. |
| Law 6 of 1892 .. | The abuse of Eau de Cologne, etc., as Liquor in the District "Moroka." | The whole. |
| Law 8 of 1893 .. | Coloured People in Towns and Villages. | In section <i>eight</i> the words "van alle inboorlingen van Zuid-Afrika, en ook van alle gekleurde personen en allen"; and section <i>thirteen</i> . |
| Law 12 of 1893 .. | Quit Rents on Town Property where the owner is out of the country or is unknown. | Sections <i>eight</i> and <i>nine</i> . |
| Law 15 of 1893 .. | Amendment of Chapter CXXXI of the Law Book (Agricultural Societies and Wool Markets). | The whole. |
| Law 16 of 1893 .. | Tax on Coloured Persons on Public Diggings. | The whole. |
| Law 14 of 1894 .. | Division of the District of Harrismith into Wards. | The whole. |
| Law 15 of 1894 .. | Amendment of Chapter CVII (Public Auctions). | The whole. |
| Law 22 of 1894 .. | Railway Lines | Sections <i>four, seven</i> and <i>eight</i> . |
| Law 23 of 1894 .. | Amendment of Chapter CI of the Law Book (National Bank). | The whole. |
| Law 4 of 1895 .. | Supplementing and Amending Part 2 of Chapter CXXXIII of the Law Book. | Sections <i>eight, twenty-four</i> and <i>twenty-five</i> . |
| Law 5 of 1895 .. | To amend Chapter CIV of the Law Book. | The whole. |
| Law 13 of 1895 .. | Supplementing and Amending Chapter CI of the Law Book. | The whole. |
| Law 22 of 1896 .. | The Collection of Statistics of the Export of Orange Free State Produce and Live Stock. | The whole. |
| Law 8 of 1897 .. | To amend and explain certain Laws. | The whole. |
| Law 14 of 1898 .. | Notarial Protocols .. . | The whole. |

| Nommer en datum van wet. | Titel of onderwerp van wet. | Omvang van herroeping. |
|--------------------------|---|--|
| Hoofdstuk LXXXIII. | Pontvervoer | Die geheel. |
| Hoofdstuk LXXXVI. | Monsters op Marktverkoopingen. | Die geheel. |
| Hoofdstuk XCIV | Krankzinnigen en Arme Zieken. | Deel II. |
| Hoofdstuk CI | Acte van Oprichting van de Nationale Bank. | Die geheel. |
| Hoofdstuk CVI | Passeeren van Notarieële Acten ten overstaan van Landdrosten. | Die geheel. |
| Hoofdstuk CXXXIII. | De Wet tot tegengaan van Veedieverij, Landlooperij, en Verzamelingen van Kleurlingen. | Artikels <i>drie-en-dertig, vier-en-dertig, vyf-en-dertig, twee-en-veertig</i> tot en met <i>een-en-vyftig</i> , en <i>drie-en-vyftig</i> ; en Schedulen A en C. |
| Hoofdstuk CXXXIX. | Misdaad tegen den Staat | Die geheel. |
| Wet 6 van 1892.. | Misbruik van Eau-de-Cologne, ens. als drank in het distrikt Moroka. | Die geheel. |
| Wet 8 van 1893.. | Kleurlingen in Dorpen en Steden. | In artikel <i>agt</i> die woorde „van alle inboorlingen van Zuid-Afrika, en ook van alle gekleurde personen en allen”; en artikel <i>dertien</i> . |
| Wet 12 van 1893 | Recognitie op Dorpseigendommen waarvan de eigenaar buiten 's lands of onbekend is. | Artikels <i>agt</i> en <i>nege</i> . |
| Wet 15 van 1893 | Tot wijziging van Hoofdstuk CXXXI van het Wetboek (over Landbouwenootschappen en Wolmarkten). | Die geheel. |
| Wet 16 van 1893 | Zekere belasting op Kleurlingen in Publieke Delverijen. | Die geheel. |
| Wet 14 van 1894 | Verdeeling van het district Harrismith in Wijken. | Die geheel. |
| Wet 15 van 1894 | Tot wijziging van Hoofdstuk CVII (over verkoop bij Publieke Veiling). | Die geheel. |
| Wet 22 van 1894 | Spoorweg Lijnen . . . | Artikels <i>vier, sewe</i> en <i>agt</i> . |
| Wet 23 van 1894 | Tot wijziging van Hoofdstuk CI van het Wetboek (Nationale Bank). | Die geheel. |
| Wet 4 van 1895.. | Tot aanvulling en wijziging van Afdeeling 2, Hoofdstuk CXXXIII van het Wetboek. | Artikels <i>agt, vier-en-twintig</i> en <i>vyf-en-twintig</i> . |
| Wet 5 van 1895.. | Tot wijziging van Hoofdstuk CIV van het Wetboek. | Die geheel. |
| Wet 13 van 1895 | Tot wijziging en aanvulling van Hoofdstuk CI van het Wetboek. | Die geheel. |
| Wet 22 van 1896 | Verzameling van Statistiek van uitgevoerde Oranjevrijstaatsche producten en levende have. | Die geheel. |
| Wet 8 van 1897.. | Tot verbetering en verduidelijking van sommige wetten. | Die geheel. |
| Wet 14 van 1898 | Protocollen van Notarissen. | Die geheel. |

| Number and Date of Law. | Title or Subject of Law. | Extent of Repeal. |
|---------------------------------|---|--|
| Law 17 of 1898 | Supplementing and Amending Chapter CXXXV and Law No. 3 of 1894 (Protection of Game and Wild Birds). | So much as is unrepealed. |
| Law 8 of 1899 | Further Provisions against Vagrancy and Theft. | Sections <i>five</i> and <i>six</i> . |
| Proclamation 1 of 1901 (H.C.). | South African Constabulary. | The whole. |
| Proclamation 3 of 1901 (H.C.). | Coinage | The whole. |
| Proclamation 6 of 1901 (D.A.). | Vesting of Powers of Staatsprocureur in Legal Adviser. | The whole. |
| Proclamation 7 of 1901 D.A.) | Board of Health Amendment. | The whole. |
| Proclamation 13 of 1901 (D.A.). | Contracts for Sale of Farms. | The whole. |
| Proclamation 11 of 1901 (A.). | Alienation of property .. | The whole. |
| Proclamation 22 of 1901 (H.C.). | South African Constabulary | The whole. |
| Proclamation 1 of 1902 (D.A.). | District Surgeons' Regulations. | The whole. |
| Proclamation 3 of 1902 (D.A.). | District Surgeons' Regulations Amendment. | The whole. |
| Proclamation 3 of 1902 (A.). | Repeal of Laws | The whole. |
| Proclamation 13 of 1902 (D.A.). | Control of Lands at Thaba 'Nchu. | The whole. |
| Proclamation 16 of 1902 (D.A.). | Sale of Intoxicating Scents in Ward Moroka. | The whole. |
| Proclamation 17 of 1902 (D.A.). | Boundaries of Districts | The whole. |
| Ordinance 1 of 1902. | The Civil Administration Indemnity Ordinance, 1902. | The whole. |
| Ordinance 2 of 1902. | Officials' Duties Ordinance, 1902. | The whole. |
| Ordinance 4 of 1902. | The Administration of Justice Ordinance, 1902. | The last sentence of section <i>one</i> ; sections <i>five</i> , <i>six</i> , <i>seven</i> , <i>twenty-two</i> , <i>twenty-three</i> , <i>twenty-four</i> , <i>forty-one</i> , <i>forty-six</i> , <i>forty-seven</i> , <i>forty-nine</i> and <i>fifty</i> and Form A in the Schedule. |
| Ordinance 6 of 1902. | The Justices of the Peace Ordinance, 1902. | Section <i>twenty-eight</i> . |
| Ordinance 8 of 1902. | Civil Commissioners Ordinance, 1902. | The whole. |
| Ordinance 10 of 1902. | Bills of Costs Taxation Ordinance, 1902. | In section <i>one</i> all words after the word "determine"; in section <i>four</i> the words "and the Clerks of the Courts of Resident Magistrates"; in section <i>seventeen</i> all words after the word "taxation" where that word appears for the second time; and section <i>twenty-one</i> . |
| Ordinance 11 of 1902. | Law of Evidence Ordinance, 1902. | Sections <i>ten</i> to <i>fifteen</i> inclusive; <i>nineteen</i> , <i>twenty-four</i> to <i>twenty-seven</i> , inclusive; <i>twenty-nine</i> ; in section <i>thirty-one</i> all words between the words "criminal" and "shall"; paragraph (a) of section <i>thirty-eight</i> , sections <i>fifty</i> , <i>fifty-one</i> and <i>fifty-three</i> . |

| Nommer en datum van wet. | Titel of onderwerp van wet. | Omvang van herroeping. |
|---------------------------------|---|--|
| Wet 17 van 1898 | Tot aanvulling en wijziging van Hoofdstuk CXXXV en Wet No. 3 van 1894 (Beschermt van Wild en Wildgevoegelte.) | Soveel as nog nie herroep is nie. |
| Wet 8 van 1899. | Nadere bepalingen tot tegengaan van Landlooperij en Dieverij. | Artikels <i>vyf</i> en <i>ses</i> . |
| Proklamasie 1 van 1901 (H.C.). | Suid-Afrikaanse Polisie-mag. | Die geheel. |
| Proklamasie 3 van 1901 (H.C.). | Munt | Die geheel. |
| Proklamasie 6 van 1901 (A.A.). | Oordrag van Magte van Staatsprokureur op Regsadviseur. | Die geheel. |
| Proklamasie 7 van 1901 (A.A.). | Gesondheidsraad Wysiging. | Die geheel. |
| Proklamasie 13 van 1901 (A.A.). | Kontrakte vir die Verkoop van Plase. | Die geheel. |
| Proklamasie 11 van 1901 (A.). | Vervreemding van Goedere. | Die geheel. |
| Proklamasie 22 van 1901 (H.C.). | Suid-Afrikaanse Polisie-mag. | Die geheel. |
| Proklamasie 1 van 1902 (A.A.). | Regulasies vir Distriksgeneeshere | Die geheel. |
| Proklamasie 3 van 1902 (A.A.). | Wysiging van Regulasies vir Distriksgeneeshere. | Die geheel. |
| Proklamasie 3 van 1902 (A.). | Herroeping van Wette | Die geheel. |
| Proklamasie 13 van 1902 (A.A.). | Beheer van Gronde te Thaba 'Nchu. | Die geheel. |
| Proklamasie 16 van 1902 (A.A.). | Verkoop van Bedwelende Reukwater in die wyk Moroka. | Die geheel. |
| Proklamasie 17 van 1902 (A.A.). | Grensllyne van Distrikte | Die geheel. |
| Ordonnansie 1 van 1902. | „The Civil Administration Indemnity Ordinance 1902”. | Die geheel. |
| Ordonnansie 2 van 1902. | „Officials Duties Ordinance, 1902”. | Die geheel. |
| Ordonnansie 4 van 1902. | „The Administration of Justice Ordinance, 1902”. | Die laaste sin van artikel <i>een</i> ; artikels <i>vyf</i> , <i>ses</i> , <i>sewe</i> , <i>twee-en-twintig</i> , <i>drie-en-twintig</i> , <i>vier-en-twintig</i> , <i>een-en-veertig</i> , <i>ses-en-veertig</i> , <i>sewe-en-veertig</i> , <i>nege-en-veertig</i> en Vorm A in die Bylae. |
| Ordonnansie 6 van 1902. | „The Justices of the Peace Ordinance, 1902”. | Artikel <i>agt-en-twintig</i> . |
| Ordonnansie 8 van 1902. | „Civil Commissioners Ordinance, 1902”. | Die geheel. |
| Ordonnansie 10 van 1902. | „Bills of Costs Taxation Ordinance, 1902”. | In artikel <i>een</i> alle woorde na die woord „determine”; in artikel <i>vier</i> die woorde „and the Clerks of the Courts of Resident Magistrates”; in artikel <i>seventien</i> alle woorde na die woord „taxation” waar gemelde woord vir die tweede maal voorkom; en artikel <i>een-en-twintig</i> . |
| Ordonnansie 11 van 1902. | „Law of Evidence Ordinance, 1902”. | Artikels <i>tien</i> tot en met <i>vyftien</i> ; <i>negentien</i> , <i>vier-en-twintig</i> tot en met <i>sewe-en-twintig</i> ; <i>nege-en-twintig</i> ; in artikel <i>een-en-dertig</i> alle woorde tussen die woorde „criminal” en „shall”; paragraaf (a) van artikel <i>agt-en-dertig</i> ; artikels <i>vyftig</i> , <i>een-en-veertig</i> en <i>drie-en-veertig</i> . |

| Number and Date of Law. | Title or Subject of Law. | Extent of Repeal. |
|-------------------------|--|---|
| Ordinance 13 of 1902. | Repeal of Laws Ordinance, 1902. | The whole. |
| Ordinance 16 of 1902. | Railway Lines Law Amendment Ordinance, 1902. | The whole. |
| Ordinance 18 of 1902. | The Protection of Stock Ordinance, 1902. | The whole. |
| Ordinance 21 of 1902. | The Police Offences Ordinance, 1902. | Sections <i>thirty-one</i> and <i>thirty-two</i> . |
| Ordinance 22 of 1902. | Lands Settlement Ordinance, 1902. | The whole. |
| Ordinance 24 of 1902. | National Bank Articles of Association Amendment Ordinance, 1902. | The whole. |
| Ordinance 25 of 1902. | Indemnity and Peace Preservation Ordinance 1902. | So much as is unrepealed. |
| Ordinance 26 of 1902. | Military Structures Removal and Concentration Camps Maintenance Ordinance, 1902. | The whole. |
| Ordinance 32 of 1902. | Acting Officers' Appointment Ordinance, 1902. | The whole. |
| Ordinance 10 of 1903. | Stamps and Licences Ordinance, 1903. | Sections <i>one, two, three, thirty-three to forty-four</i> inclusive; in section <i>forty-five</i> all words before the words "the special marriage licence" and also the word "which"; sections <i>forty-six, fifty-two to fifty-five</i> inclusive, and Schedules A, B, C and D in so far as they are unrepealed except the last item in Schedule C, to wit: "for every special marriage licence . . . £5 0s. 0d." |
| Ordinance 17 of 1903. | The Rabies Ordinance, 1903. | So much as is unrepealed. |
| Ordinance 18 of 1903. | Appropriation Ordinance, 1903. | The whole. |
| Ordinance 21 of 1903. | Lands Settlement Amendment Ordinance, 1903. | The whole. |
| Ordinance 32 of 1903. | Additional Appropriation 1902-3 Ordinance, 1903. | The whole. |
| Ordinance 33 of 1903. | Appropriation 1903-4 Ordinance, 1903. | The whole. |
| Ordinance 49 of 1903. | The Census Ordinance, 1904. | The whole. |
| Ordinance 2 of 1904. | Poll Tax Consolidation Ordinance, 1904. | Section <i>twenty-two</i> and Schedule D. |
| Ordinance 10 of 1904. | Revision of Laws Ordinance, 1904. | The whole. |
| Ordinance 13 of 1904. | Administration of Justice Amending Ordinance, 1904. | Sections <i>one, sixteen, seventeen</i> and <i>eighteen</i> . |
| Ordinance 14 of 1904. | Additional Appropriation 1903-4 Ordinance, 1904. | The whole. |
| Ordinance 15 of 1904. | Excess Appropriation 1902-3 Ordinance, 1904. | The whole. |
| Ordinance 16 of 1904. | Sentences Amendment Ordinance, 1904. | So much as is unrepealed. |
| Ordinance 25 of 1904. | Appropriation 1904-5 Ordinance, 1904. | The whole. |

| Nummer en datum van wet. | Titel of onderwerp van Wet. | Omvang van herroeping. |
|--------------------------|--|---|
| Ordonnansie van 1902. 13 | „Repeal of Laws Ordinance, 1902”. | Die geheel. |
| Ordonnansie van 1902. 16 | „Railway Lines Law Amendment Ordinance, 1902”. | Die geheel. |
| Ordonnansie van 1902. 18 | „The Protection of Stock Ordinance, 1902”. | Die geheel. |
| Ordonnansie van 1902. 21 | „The Police Offences Ordinance, 1902”. | Artikels <i>een-en-dertig</i> en <i>twee-en-dertig</i> . |
| Ordonnansie van 1902. 22 | „Lands Settlement Ordinance, 1902”. | Die geheel. |
| Ordonnansie van 1902. 24 | „National Bank Articles of Association Amendment Ordinance, 1902”. | Die geheel. |
| Ordonnansie van 1902. 25 | „Indemnity and Peace Preservation Ordinance, 1902”. | Soveel as nog nie herroep is nie. |
| Ordonnansie van 1902. 26 | „Military Structures Removal and Concentration Camps Maintenance Ordinance, 1902”. | Die geheel. |
| Ordonnansie van 1902. 32 | „Acting Officers' Appointment Ordinance, 1902”. | Die geheel. |
| Ordonnansie van 1903. 10 | „Stamps and Licences Ordinance, 1903”. | Artikels <i>een</i> , <i>twee</i> , <i>drie</i> , <i>drie-en-dertig</i> , tot en met <i>vier-en-veertig</i> ; in artikel <i>vyf-en-veertig</i> alle woorde voor die woorde „the special marriage licence”, asook die woord „which”; artikels <i>ses-en-veertig</i> , <i>twee-en-vyftig</i> tot en met <i>vyf-en-vyftig</i> ; en Bylaes A, B, C en D, vir sover as hulle nog nie herroep is nie, behalwe die laaste item in Bylae C, te wete: „for every special marriage licence . . . £5 0 0”. |
| Ordonnansie van 1903. 17 | „The Rabies Ordinance, 1903”. | Soveel as nog nie herroep is nie. |
| Ordonnansie van 1903. 18 | „Appropriation Ordinance, 1903”. | Die geheel. |
| Ordonnansie van 1903. 21 | „Lands Settlement Amendment Ordinance, 1903”. | Die geheel. |
| Ordonnansie van 1903. 32 | „Additional Appropriation 1902-3 Ordinance, 1903”. | Die geheel. |
| Ordonnansie van 1903. 33 | „Appropriation 1903-4 Ordinance, 1903”. | Die geheel. |
| Ordonnansie van 1903. 49 | „The Census Ordinance, 1903.” | Die geheel. |
| Ordonnansie 2 van 1904. | „Poll Tax Consolidation Ordinance, 1904”. | Artikel <i>twee-en-twintig</i> en Bylae D. |
| Ordonnansie van 1904. 10 | „Revision of Laws Ordinance, 1904”. | Die geheel. |
| Ordonnansie van 1904. 13 | „Administration of Justice Amending Ordinance, 1904.” | Artikels <i>een</i> , <i>sestien</i> , <i>sewentien</i> en <i>agtien</i> . |
| Ordonnansie van 1904. 14 | „Additional Appropriation 1903-4 Ordinance, 1904”. | Die geheel. |
| Ordonnansie van 1904. 15 | „Excess Appropriation, 1902-3 Ordinance, 1904.” | Die geheel. |
| Ordonnansie van 1904. 16 | „Sentences Amendment Ordinance, 1904”. | Soveel as nog nie herroep is nie. |
| Ordonnansie van 1904. 25 | „Appropriation 1904-5 Ordinance, 1904”. | Die geheel. |

| Number and Date of Law. | Title or Subject of Law. | Extent of Repeal. |
|-------------------------------|--|---|
| Ordinance 1 of 1905. | Correction of Verbal Errors in Laws Ordinance, 1905. | The first, second, third, fourth, fifth, sixth, eighth, ninth and eleventh items in the Schedule. |
| Ordinance 4 of 1905. | Excess Appropriation 1903-4 Ordinance, 1905. | The whole. |
| Ordinance 8 of 1905. | Ladybrand Railway Loan Ordinance, 1905. | The whole. |
| Ordinance 13 of 1905. | Stamps and Licences Amendment Ordinance, 1905. | Section <i>seven</i> and the Schedule. |
| Ordinance 19 of 1905. | Bloemfontein Municipality (Supplementary) Ordinance, 1905 | Section <i>fifteen</i> . |
| Ordinance 20 of 1905. | Rabbit Ordinance, 1905 | The whole. |
| Ordinance 23 of 1905. | Additional Appropriation 1904-5 Ordinance, 1905. | The whole. |
| Ordinance 25 of 1905. | Breeding Stock and Water Conservation Loans Ordinance, 1905. | So much as is unrepealed. |
| Ordinance 30 of 1905. | Appropriation 1905-6 Ordinance, 1905. | The whole. |
| Ordinance 36 of 1905. | Bloemfontein Municipality Amendment Ordinance, 1905. | So much as is unrepealed. |
| Ordinance 1 of 1906. | Administration of Justice Supplementary Ordinance, 1906. | Smuch as is unrepealed. |
| Ordinance 9 of 1906. | Pass Laws Amendment Ordinance, 1906. | Section <i>five</i> . |
| Ordinance 17 of 1906. | General Loan and Inscribed Stock Ordinance, 1906. | The whole. |
| Ordinance 20 of 1906. | Trustee Investment in Orange River Colony Government Securities Ordinance, 1906. | The whole. |
| Ordinance 23 of 1906. | Additional Appropriation 1905-6 Ordinance, 1906. | The whole. |
| Ordinance 24 of 1906. | Appropriation 1906-7 Ordinance, 1906. | The whole. |
| Ordinance 25 of 1906. | Appropriation (Extraordinary) Ordinance, 1906. | The whole. |
| Ordinance 27 of 1906. | Interpretation and Revision of Laws Ordinance, 1906. | Section <i>two</i> , Schedule A and the first, second, third, fourth, fifth, sixth, seventh, eleventh, twelfth, <i>f o u r t e e n t h</i> , eighteenth, nineteenth, twenty-second, twentieth-third, twenty-fifth and twenty-sixth items in Schedule B. |
| Ordinance 31 of 1906. | Lands Settlement Amendment Ordinance, 1906. | The whole. |
| Ordinance 1 of 1906 (Private) | Masisi Estate Ordinance, 1906. | The whole. |
| Ordinance 2 of 1907. | Solemn Declaration Ordinance, 1907. | The whole. |
| Ordinance 9 of 1907. | Excess Appropriation 1905-6 Ordinance, 1907. | The whole. |

| Nommer en datum van wet. | Titel of onderwerp van wet. | Omvang van herroeping. |
|-----------------------------------|--|---|
| Ordonnansie 1 van 1905. | „Correction of Verbal Errors in Laws Ordinance, 1905”. | Die eerste, tweede, derde, vierde, vyfde, sesde, agste, negende en elfde items in die Bylae. |
| Ordonnansie 4 van 1905. | „Excess Appropriation 1903-4 Ordinance, 1905”. | Die geheel. |
| Ordonnansie 8 van 1905. | „Ladybrand Railway Loan Ordinance, 1905”. | Die geheel. |
| Ordonnansie 13 van 1905. | „Stamps and Licences Amendment Ordinance, 1905”. | Artikel <i>sewe</i> en die Bylae. |
| Ordonnansie 19 van 1905. | „Bloemfontein Municipality (Supplementary) Ordinance, 1905”. | Artikel <i>vyftien</i> . |
| Ordonnansie 20 van 1905. | „Rabbit Ordinance, 1905.” | Die geheel. |
| Ordonnansie 23 van 1905. | „Additional Appropriation 1904-5 Ordinance, 1905”. | Die geheel. |
| Ordonnansie 25 van 1905. | „Breeding Stock and Water Conservation Loans Ordinance, 1905”. | Soveel as nog nie herroep is nie. |
| Ordonnansie 30 van 1905. | „Appropriation 1905-6 Ordinance, 1905.” | Die geheel. |
| Ordonnansie 36 van 1905. | „Bloemfontein Municipality Amendment Ordinance, 1905”. | Soveel as nog nie herroep is nie. |
| Ordonnansie 1 van 1906. | „Administration of Justice Supplementary Ordinance, 1906”. | Soveel as nog nie herroep is nie. |
| Ordonnansie 9 van 1906. | „Pass Laws amendment Ordinance, 1906”. | Artikel <i>vyf</i> . |
| Ordonnansie 17 van 1906. | „General Loan and Inscribed Stock Ordinance, 1906”. | Die geheel. |
| Ordonnansie 20 van 1906. | „Trustee Investment in Orange River Colony Government Securities Ordinance, 1906”. | Die geheel. |
| Ordonnansie 23 van 1906. | „Additional Appropriation 1905-6 Ordinance, 1906”. | Die geheel. |
| Ordonnansie 24 van 1906. | „Appropriation 1906-7 Ordinance, 1906”. | Die geheel. |
| Ordonnansie 25 van 1906. | „Appropriation (Extraordinary) Ordinance, 1906”. | Die geheel. |
| Ordonnansie 27 van 1906. | „Interpretation and Revision of Laws Ordinance, 1906.” | Artikel <i>twee</i> , Bylae A, en die eerste, tweede, derde, vierde, vyfde, sesde, sewende, elfde, twaalfde, veertiende, agtiende, negentiende, twee-en-twintigste, drie-en-twintigste, vyf-en-twintigste, en ses-en-twintigste items in Bylae B. |
| Ordonnansie 31 van 1906. | „Lands Settlement Amendment Ordinance, 1906”. | Die geheel. |
| Ordonnansie 1 van 1906 (Privaat). | „Masisi Estate Ordinance, 1906.” | Die geheel. |
| Ordonnansie 2 van 1907. | „Solemn Declarations Ordinance, 1907”. | Die geheel. |
| Ordonnansie 9 van 1907. | „Excess Appropriation 1905-6 Ordinance, 1907”. | Die geheel. |

| Number and Date of Law. | Title or Subject of Law. | Extent of Repeal. |
|--------------------------------|---|---|
| Ordinance 13 of 1907. | Further Revision of Laws Ordinance, 1907. | The first to the seventh items, inclusive, and the tenth to the fourteenth items, inclusive, in the Schedule. |
| Ordinance 17 of 1907. | Appropriation (Additional Extraordinary) Ordinance, 1907. | The whole. |
| Ordinance 20 of 1907. | Imperial Contribution Repeal Ordinance, 1907. | The whole. |
| Ordinance 22 of 1907. | Additional Appropriation 1906-7 Ordinance, 1907. | The whole. |
| Ordinance 23 of 1907. | Appropriation 1907-8 Ordinance, 1907. | The whole. |
| Ordinance 25 of 1907. | Insect Pests and Diseases of Plants Prevention Ordinance, 1907. | The whole. |
| Ordinance 26 of 1907. | Lands Settlement Further Amendment Ordinance, 1907. | The whole. |
| Ordinance 2 of 1907 (Private) | Special Admission of Attorneys Private Ordinance, 1907. | The whole. |
| Ordinance 3 of 1907 (Private). | Alexander Exemption from Disabilities Private Ordinance, 1907. | The whole. |
| Letters Patent, 1907. | The Orange River Colony Constitution Letters Patent, 1907. | The whole except sections <i>nine, ten (1), fifty-two and sixty-one, Schedule II, Part I, section six (1) (i) (a) and (b) and Schedule V.</i> |
| Act 1 of 1907 .. | Orange River Colony Constitution Letters Patent 1907 Amendment Act, 1907. | The whole. |
| Act 1 of 1908 .. | Powers and Privileges of Parliament Act, 1908. | The whole. |
| Act 2 of 1908 .. | Colonial Secretary's Powers (Substitution) Act, 1908. | The whole. |
| Act 3 of 1908 .. | Appropriation (Part 1908-1909) Act, 1908. | The whole. |
| Act 11 of 1908 .. | Appropriation (Additional Extraordinary) Act, 1908. | The whole. |
| Act 15 of 1908 .. | Inter-Colonial Conventions Ratification Act, 1908. | In section <i>five</i> all words after "1908"; and the First Schedule. |
| Act 16 of 1908 .. | Transvaal Guaranteed Loan (Assumption of Part Liability) Act, 1908. | The whole. |
| Act 18 of 1908 .. | Officers of Parliament Remuneration Act, 1908. | The whole. |
| Act 21 of 1908 .. | Payment of Members of Parliament Act, 1908. | The whole. |
| Act 22 of 1908 .. | The Fauresmith & Jacobsdal Electoral Divisions Act, 1908. | The whole. |
| Act 25 of 1908 .. | Agent-General's Act, 1908. | The whole. |
| Act 26 of 1908 .. | Scab Law Amendment Act, 1908. | The whole. |
| Act 27 of 1908 .. | Additional Appropriation 1907-8 Act, 1908. | The whole. |

| Nommer en datum van wet. | Titel of onderwerp van wet. | Omvang van herroeping. |
|-----------------------------------|---|---|
| Ordonnansie van 1907. 13 | „Further Revision of Laws Ordinance, 1907”. | Die eerste tot en met die sewende items, en die tiende tot en met die veertiende items in die Bylae. |
| Ordonnansie van 1907. 17 | „Appropriation (Additional Extraordinary) Ordinance, 1907”. | Die geheel. |
| Ordonnansie van 1907. 20 | „Imperial Contribution Repeal Ordinance, 1907”. | Die geheel. |
| Ordonnansie van 1907. 22 | „Additional Appropriation 1906-7 Ordinance, 1907”. | Die geheel. |
| Ordonnansie van 1907. 23 | „Appropriation 1907-8 Ordinance, 1907”. | Die geheel. |
| Ordonnansie van 1907. 25 | „Insect Pests and Diseases of Plants Prevention Ordinance, 1907”. | Die geheel. |
| Ordonnansie van 1907. 26 | „Lands Settlement Further Amendment Ordinance, 1907”. | Die geheel. |
| Ordonnansie 2 van 1907 (Privaat). | „Special Admission of Attorneys Private Ordinance, 1907”. | Die geheel. |
| Ordonnansie 3 van 1907 (Privaat). | „Alexander Exemption from Disabilities Private Ordinance, 1907”. | Die geheel. |
| Ope Brief, 1907.. | „The Orange River Colony Constitution Letters Patent, 1907”. | Die geheel, behalwe artikels <i>nege, tien</i> (1), <i>twee-en-vyftig</i> en <i>een-en-sestig</i> ; Bylae II, Deel I, artikel <i>ses</i> (1) (i) (a) en (b) en Bylae V. |
| Wet 1 van 1907.. | „Orange River Colony Constitution Letters Patent 1907 Amendment Act, 1907”. | Die geheel. |
| Wet 1 van 1908.. | „Powers and Privileges of Parliament Act, 1908”. | Die geheel. |
| Wet 2 van 1908.. | „Colonial Secretary's Powers (Substitution) Act, 1908”. | Die geheel. |
| Wet 3 van 1908.. | Appropriation (Part 1908-1909) Act, 1908”. | Die geheel. |
| Wet 11 van 1908 | „Appropriation (Additional Extraordinary) Act, 1908”. | Die geheel. |
| Wet 15 van 1908 | „Inter-Colonial Conventions Ratification Act, 1908”. | In artikel <i>vyf</i> alle woorde na „1908”; en die Eerste Bylae. |
| Wet 16 van 1908 | „Transvaal Guaranteed Loan (Assumption of Part Liability) Act, 1908”. | Die geheel. |
| Wet 18 van 1908 | „Officers of Parliament Remuneration Act, 1908”. | Die geheel. |
| Wet 21 van 1908 | „Payment of Members of Parliament Act, 1908”. | Die geheel. |
| Wet 22 van 1908 | „The Fauresmith and Jacobsdal Electoral Divisions Act, 1908”. | Die geheel. |
| Wet 25 van 1908 | „Agent-General's Act, 1908”. | Die geheel. |
| Wet 26 van 1908 | „Scab Law Amendment Act, 1908”. | Die geheel. |
| Wet 27 van 1908 | „Additional Appropriation 1907-8 Act, 1908”. | Die geheel. |

| Number and Date of Law. | Title or Subject of Law. | Extent of Repeal. |
|-------------------------|---|--|
| Act 28 of 1908 .. | Appropriation Act, 1908 | The whole. |
| Act 36 of 1908 .. | Orange River Colony, Police Act, 1908. | The whole. |
| Act 40 of 1908 .. | Orange River Colony, Public Loan Act, 1908. | The whole. |
| Act 41 of 1908 .. | Private Bills (Deposit of Documents and Taxation of Costs) Act, 1908. | The whole. |
| Act 42 of 1908 .. | Rights of Coloured Persons in respect of Fixed Property Act, 1908. | The whole. |
| Act 1 of 1909 .. | Orange River Colony Public Loan Amendment Act, 1909. | The whole. |
| Act 2 of 1909 .. | Transvaal Guaranteed Loan (Assumption of Part Liability) Act Amendment Act, 1909. | The whole. |
| Act 5 of 1909 .. | Prorogation of Parliament Act, 1909. | The whole. |
| Act 8 of 1909 .. | Appropriation (Part 1909-1910) Act, 1909. | The whole. |
| Act 10 of 1909 .. | Appropriation (Extraordinary No. 2) Act, 1909. | The whole. |
| Act 11 of 1909 .. | Additional Appropriation 1908-9 Act, 1909. | The whole. |
| Act 12 of 1909 .. | Licensing of Native Eating-houses Act, 1909. | In section <i>one</i> , the definition of "location" in section <i>two</i> , the words "location or" and the words "Town Council, Board of Management or other"; in section <i>four</i> (1) the words "Town Council or" and the words "Municipality, Village or"; in section <i>four</i> (2) the words "Municipality or"; in section <i>five</i> the words "Town Council"; and in section <i>eight</i> (2) the words "Town Council." |
| Act 16 of 1909 .. | Public Loans Acts Amendment Act, 1909. | The whole. |
| Act 18 of 1909 .. | The Correction of Verbal Errors in Laws Act, 1909. | The first, second, third, sixth and seventh items in the Schedule. |
| Act 19 of 1909 .. | Appropriation Act, 1909 | The whole. |
| Act 20 of 1909 .. | Additional Appropriation Act, 1909. | The whole. |
| Act 21 of 1909 .. | Appropriation (Extraordinary No. 3) Act, 1909. | The whole. |
| Act 27 of 1909 .. | Admission of Conveyancers Amendment Act, 1909. | The whole. |
| Act 28 of 1909 .. | Registration of Co-operative Societies Act, 1909. | The whole. |
| Act 35 of 1909 .. | Sannah's Post-Wepener Railway Act, 1909. | The whole. |
| Act 36 of 1909 .. | Bethlehem-Villiers Railway Act, 1909. | The whole. |

| Nommer en datum van wet. | Titel of onderwerp van wet. | Omvang van herroeping. |
|--------------------------|---|--|
| Wet 28 van 1908 | „Appropriation Act, 1908”. | Die geheel. |
| Wet 36 van 1908 | „Orange River Colony Police Act, 1908”. | Die geheel. |
| Wet 40 van 1908 | „Orange River Colony Public Loan Act, 1908”. | Die geheel. |
| Wet 41 van 1908 | „Private Bills (Deposit of Documents and Taxation of Costs) Act, 1908”. | Die geheel. |
| Wet 42 van 1908 | „Rights of Coloured Persons in respect of Fixed Property Act, 1908”. | Die geheel. |
| Wet 1 van 1909.. | „Orange River Colony Public Loan Amendment Act, 1909”. | Die geheel. |
| Wet 2 van 1909.. | „Transvaal Guaranteed Loan (Assumption of Part Liability) Act Amendment Act, 1909”. | Die geheel. |
| Wet 5 van 1909.. | „Prorogation of Parliament Act, 1909”. | Die geheel. |
| Wet 8 van 1909.. | „Appropriation (Part 1909-1910) Act, 1909”. | Die geheel. |
| Wet 10 van 1909 | „Appropriation (Extraordinary No. 2) Act, 1909”. | Die geheel. |
| Wet 11 van 1909 | „Additional Appropriation 1908-9 Act, 1909”. | Die geheel. |
| Wet 12 van 1909 | „Licensing of Native Eating-houses Act, 1909”. | In artikel <i>een</i> die omskrywing van „location”; in artikel <i>twee</i> die woorde „location or” en die woorde „Town Council, Board of Management or other”; in artikel <i>vier</i> (1) die woorde „Town Council or” en die woorde „Municipality, Village or”; in artikel <i>vier</i> (2) die woorde „Municipality or”; in artikel <i>vyf</i> die woorde „Town Council”; en in artikel <i>agt</i> (2) die woorde „Town Council.” |
| Wet 16 van 1909 | „Public Loans Acts Amendment Act, 1909”. | Die geheel. |
| Wet 18 van 1909 | „The Correction of Verbal Errors in Laws Act, 1909”. | Die eerste, tweede, derde, sesde en sewende items in die Bylae. |
| Wet 19 van 1909 | „Appropriation Act, 1909”. | Die geheel. |
| Wet 20 van 1909 | „Additional Appropriation Act, 1909”. | Die geheel. |
| Wet 21 van 1909 | „Appropriation (Extraordinary No. 3) Act, 1909”. | Die geheel. |
| Wet 27 van 1909 | „Admission of Conveyancers Amendment Act, 1909”. | Die geheel. |
| Wet 28 van 1909 | „Registration of Co-operative Societies Act, 1909”. | Die geheel. |
| Wet 35 van 1909 | „Sannah's Post-Wepener Railway Act, 1909”. | Die geheel. |
| Wet 36 van 1909 | „Bethlehem - Villiers Railway Act, 1909”. | Die geheel. |

| Number and Date of Law. | Title or Subject of Law. | Extent of Repeal. |
|-------------------------|--|-------------------|
| Act 38 of 1909 .. | Wessels Estate Settlement Act, 1909. | The whole. |
| Act 40 of 1909 .. | Standerton-Vrede Railway Act, 1909. | The whole. |
| Act 41 of 1909 .. | Additional Appropriation 1907-8 Act, 1909. | The whole. |
| Act 42 of 1909 .. | Construction of Railways Special Appropriation Act, 1909. | The whole. |
| Act 3 of 1910 .. | The National Bank of Orange River Colony Disposal Act, 1910. | The whole. |
| Act 6 of 1910 .. | The Ramblers Loan Guarantee Act, 1910. | The whole. |
| Act 10 of 1910 .. | Appropriation (Extraordinary No. 4) Act, 1910. | The whole. |
| Act 11 of 1910 .. | The Wessels Estate Settlement Amendment Act, 1910. | The whole. |
| Act 12 of 1910 .. | Pretorius Testamentary Disposition Act, 1910. | The whole. |
| Act 14 of 1910 ... | The Parliamentary Officers Pensions Act, 1910. | The whole. |
| Act 15 of 1910 .. | The payment of Members of Parliament Amendment Act, 1910. | The whole. |
| Act 16 of 1910 .. | Additional Appropriation Act No. 2, 1909-1910. | The whole. |

| Nommer en datum van wet. | Titel of onderwerp van wet. | Omvang van herroeping. |
|--------------------------|--|------------------------|
| Wet 38 van 1909 | „Wessels Estate Settlement Act, 1909”. | Die geheel. |
| Wet 40 van 1909 | „Standerton-Vrede Railway Act, 1909”. | Die geheel. |
| Wet 41 van 1909 | „Additional Appropriation 1907-8 Act, 1909”. | Die geheel. |
| Wet 42 van 1909 | „Construction of Railways Special Appropriation Act, 1909”. | Die geheel. |
| Wet 3 van 1910.. | „The National Bank of the Orange River Colony Disposal Act, 1910”. | Die geheel. |
| Wet 6 van 1910.. | „The Ramblers Loan Guarantee Act, 1910”. | Die geheel. |
| Wet 10 van 1910 | „Appropriation (Extraordinary No. 4) Act, 1910”. | Die geheel. |
| Wet 11 van 1910 | „The Wessels Estate Settlement Amendment Act, 1910”. | Die geheel. |
| Wet 12 van 1910 | „Pretorius Testamentary Disposition Act, 1910”. | Die geheel. |
| Wet 14 van 1910 | „The Parliamentary Officers Pensions Act, 1910”. | Die geheel. |
| Wet 15 van 1910 | „The Payment of Members of Parliament Amendment Act, 1910”. | Die geheel. |
| Wet 16 van 1910 | „Additional Appropriation Act, No. 2, 1909-1910”. | Die geheel. |

[No. 34, 1936.]

ACT

To fix the rates of normal income tax and super income tax in respect of the year of assessment ending on the thirtieth day of June, 1936; to amend the Income Tax Act, 1925; to repeal the Gold Mines Excess Profits Duty Act, 1933, the Gold Mines Excess Profits Duty (Amendment) Act, 1934, and the Gold Mines Excess Profits Duty Amendment Act, 1935, and to make certain provisions incidental to such repeal.

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

Rates of income tax.

1. (1) In terms of sub-section (2) of section *five* and sub-section (2) of section *twenty-five* respectively of the Income Tax Act, 1925, which, as amended from time to time, is hereinafter referred to as the principal Act, the rates of income tax to be levied in respect of the year of assessment ending the thirtieth day of June, 1936, shall be as follows:—

(a) in so far as normal tax is concerned—

- (i) in the case of companies the sole or principal business of which is mining for gold, for each pound of taxable amount, three shillings;
- (ii) in the case of companies the sole or principal business of which is mining for diamonds, for each pound of taxable amount, three shillings;
- (iii) in the case of all other companies, for each pound of taxable amount, two shillings and six pence;
- (iv) in the case of persons other than companies, for each pound of taxable amount, one shilling and as many two-thousandths of a penny as there are pounds in that amount, subject to a maximum rate of two shillings in every such pound;
- (v) in the case of any company or person other than a company, who derives any portion of his income from mining for gold, in respect of each pound of the taxable amount so derived a percentage determined in accordance with the following formula:

$$y = 40 - \frac{500}{x}$$

in which y represents such percentage and x the ratio, expressed as a percentage, which the taxable income derived from mining for gold bears to the income derived therefrom;

(b) in so far as super tax is concerned, for each pound of the amount subject to super tax, one shilling and as many five-hundredths of a penny as there are pounds in that amount, subject to a maximum rate of five shillings in every such pound.

(2) (a) For the purposes of sub-paragraph (v) of paragraph (a) of sub-section (1), income derived from mining for gold shall include any income derived from silver, osmiridium or other minerals which may be won in the course of the mining for gold, and any income which, in the opinion of the Commissioner, results directly from mining for gold.

(b) The tax determined in accordance with the said sub-paragraph shall be payable in addition to any tax determined in accordance with sub-paragraphs (i), (ii), (iii) and (iv) of paragraph (a) of sub-section (1).

[No. 34, 1936.]

WET

Om die skale van normale inkomstebelasting en super-inkomstebelasting vas te stel vir die jaar van aanslag wat op die dertigste dag van Junie 1936, eindig; om die Inkomste-belastingwet, 1925, te wysig; om die Goudmyne-Oorwinsbelastingwet, 1933, die Goudmyne-Oorwinsbelasting Wysigingswet, 1934, en die Goudmyne-Oorwinsbelasting Wysigingswet, 1935, te herroep, en om sekere voorsienings te maak wat met dié herroeping in verband staan.

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

1. (1) Ooreenkomstig respektiewelik sub-artikel (2) van artikel vyf en sub-artikel (2) van artikel vyf-en-twintig van die Inkomstebelastingwet, 1925, wat, soas van tyd tot tyd gewysig, hieronder die Hoofwet genoem word, is die skale van inkomstebelasting wat gehê moet word oor die jaar van aanslag wat eindig op die dertigste dag van Junie 1936, as volg:

(a) wat normale belasting betref—

- (i) in die geval van maatskappye wie se enigste of vernaamste besigheid uit myn van goud bestaan, drie sjielings op elke pond van die belasbare bedrag;
- (ii) in die geval van maatskappye wie se enigste of vernaamste besigheid uit myn van diamante bestaan, drie sjielings op elke pond van die belasbare bedrag;
- (iii) in die geval van alle andere maatskappye, twee sjielings en ses pennies op elke pond van die belasbare bedrag;
- (iv) in die geval van persone wat nie maatskappye is nie, op elke pond van die belasbare bedrag een sjieling en soveel twee-duisendstes van 'n pennie as wat daardie bedrag ponde bevat, maar met twee sjielings op elke sodanige pond as maksimum van die skaal;
- (v) in die geval van 'n maatskappy of van 'n ander persoon as 'n maatskappy, wat enige gedeelte van sy inkomste uit die myn van goud verkry, ten opsigte van elke pond van die belasbare bedrag aldus verkry 'n persentasie vasgestel ooreenkomstig die volgende formule:

$$y = 40 - \frac{500}{x}$$

waarin y bedoelde persentasie voorstel en x die verhouding, in 'n persentasie uitgedruk, waarin die belasbare inkomste uit die myn van goud verkry, staan tot die inkomste daaruit verkry;

- (b) wat super-belasting betref, op elke pond van die bedrag wat aan super-belasting onderhewig is, een sjieling en soveel vyf-honderdstes van 'n pennie as wat daardie bedrag ponde bevat, maar met vyf sjielings op elke sodanige pond as maksimum van die skaal.
- (2) (a) Vir die doeleindes van sub-paragraaf (v) van paragraaf (a) van sub-artikel (1), sluit inkomste uit die myn van goud verkry die inkomste in wat verkry is van silwer, osmiridium of ander minerale wat in die loop van die myn van goud gewin mog word, en enige inkomste wat, volgens die mening van die Kommissaris, direk voortvloei uit die myn van goud.
- (b) Die belasting ooreenkomstig die vermelde sub-paragraaf vasgestel is betaalbaar benewens enige belasting ooreenkomstig sub-paragraawe (i), (ii), (iii) en (iv) van paragraaf (a) van sub-artikel (1) vasgestel.

- (c) For the purpose of determining the taxable amount referred to in the said sub-paragraph there shall be deducted from the taxable income derived from mining for gold an abatement of an amount of twenty thousand pounds, or where the period assessed is less than twelve months, an abatement of an amount which bears to twenty thousand pounds the same proportion as the said period bears to twelve months, reduced in either case by one pound for every completed four pounds by which the taxable income so derived exceeds twenty thousand pounds, or the proportionate part of twenty thousand pounds, as the case may be, and the amount remaining after deduction of the abatement so calculated shall be the taxable amount for the purposes of the said sub-paragraph.

(3) The amounts arrived at by calculation in accordance with the provisions of sub-paragraphs (iii) and (iv) of paragraph (a) of sub-section (1) shall be subject to a rebate of thirty per centum: Provided that for the purpose of assessing any tax imposed by a provincial council in the exercise of its powers under section *eleven* and the First Schedule of the Financial Relations Act, 1913, as amended, on the incomes of persons and companies, the amount of normal tax payable under the Income Tax Acts of the Union by any taxpayer in respect of the year of assessment ending the thirtieth day of June, 1936, shall be deemed to be equal to the amount which would have been payable by such taxpayer as normal tax if the provision for such a rebate had not been enacted.

Exemption of certain income from the tax determined under section 1 (1) (a) (v).

2. There shall be exempt from the tax determined in accordance with the provisions of sub-paragraph (v) of paragraph (a) of sub-section (1) of section *one*, any income chargeable with gold mines excess profits duty or gold profits surtax under the provisions of the Gold Mines Excess Profits Duty Act, 1933, as amended, and the Gold Mines Excess Profits Duty Amendment Act, 1935, respectively.

Determination of increase in the scale of taxation for the purposes of certain leases of the right to mine for gold.

3. For the purposes of any lease of the right to mine for gold—

- (a) in which provision is made for the set-off of the whole or a portion of the amount payable by the lessee by reason of any increase in the scale of taxation leviable upon incomes derived from mining for gold, against the annual consideration payable by the lessee in respect of such lease, and
- (b) in respect of which the provisions of the Gold Mines Excess Profits Duty Act, 1933, as amended, and the Gold Mines Excess Profits Duty Amendment Act, 1935, do not effect such an increase,

the provisions of sub-paragraph (v) of paragraph (a) of sub-section (1) of section *one* shall be deemed not to effect such an increase.

Amendment of section 23 of Act 40 of 1925.

4. Section *twenty-three* of the principal Act is hereby amended by the addition of the following further provisos at the end of sub-section (1):

“ Provided further that in the case of any person carrying on gold mining operations who commences the production of gold after the thirty-first day of December, 1935, the amount to be deducted with reference to each year of assessment, in respect of the capital expenditure ranking for redemption, incurred by that person prior to the date of commencement of such production, shall, until the aggregate of the amounts deducted is equal to the amount of such capital expenditure, be such sum as will, when multiplied by ten, or, where the life of the mine as estimated under the provisions of sub-sections (2) and (3) is less than ten years, by such lesser number, equal the amount of such capital expenditure: Provided further that the provisions of the last preceding proviso shall not apply in respect of any capital expenditure incurred by such person on or after the date of commencement of such production ”.

(c) Vir die doeleindes van die vasstelling van die belasbare bedrag in die vermelde sub-paragraaf bedoel, word van die belasbare inkomste uit die myn van goud verkry 'n korting afgetrek van 'n bedrag van twintigduisend pond, of waar die tydperk waarvoor aangeslaan word minder as twaalf maande beloop, 'n korting van 'n bedrag wat in dieselfde verhouding staan tot twintigduisend pond as die waarin daardie tydperk staan tot twaalf maande, verminder in albei gevalle deur een pond vir elke voltallige vier pond waarby die belasbare inkomste aldus verkry twintigduisend pond, of die eweredige gedeelte van twintigduisend pond, na gelang van die geval, te bowe gaan, en die bedrag wat oorbly na die aldus berekende korting afgetrek is, is die belasbare bedrag vir die doeleindes van die vermelde sub-paragraaf.

(3) Die bedrae wat deur berekening ooreenkomstig die bepalings van sub-paragrafe (iii) en (iv) van paragraaf (a) van sub-artikel (1) vasgestel word, is onderhewig aan 'n korting van dertig persent: Met dien verstande dat vir die aanslag van 'n belasting deur 'n provinsiale raad in die uitoefening van sy bevoegdheede kragtens artikel *elf* en die Eerste Bylae van die Finansiële Verhoudingswet, 1913, soas gewysig, opgelê op inkomste van persone en maatskappye, die bedrag van die normale belasting deur 'n belastingpligtige kragtens die Inkomstebelastingwette van die Unie verskuldig vir die jaar van aanslag wat op die dertigste dag van Junie 1936 eindig, geag word gelyk te wees aan die bedrag wat daardie belastingpligtige as normale belasting sou verskuldig gewees het as geen voorsiening vir so'n korting gemaak was nie.

2. Inkomste ten opsigte waarvan goudmyne-oorwinsbelasting of goudwins-ekstrabelasting kragtens die bepalings van die Goudmyne-Oorwinsbelastingwet, 1933, soas gewysig, en die Goudmyne-Oorwinsbelasting Wysigingswet, 1935, respektiewelik, opgelê kan word, is vrygestel van die belasting ooreenkomstig die bepalings van sub-paragraaf (v) van paragraaf (a) van sub-artikel (1) van artikel *een* vasgestel.

Vasstelling van sekere inkomste van belasting ingevolge artikel 1 (1) (a) (v) vasgestel.

3. Vir die doeleindes van 'n huur van die reg om goud te myn—

(a) waarin bepaal word dat die bedrag, wat weens 'n verhoging in die skaal van belasting wat hefbaar is op inkomste uit die myn van goud verkry, deur die huurder betaalbaar is, in sy geheel of vir 'n gedeelte in skuldvergelyking gebring word met die jaarlikse vergoeding wat deur die huurder ten opsigte van bedoelde huur betaalbaar is; en

(b) ten opsigte waarvan die bepalings van die Goudmyne-Oorwinsbelastingwet, 1933, soas gewysig, en die Goudmyne-Oorwinsbelasting Wysigingswet, 1935, nie so 'n verhoging teweegbring nie,

Vasstelling van verhoging van die belastingsskaal vir die doeleindes van sekere hure van die reg om goud te myn

word die bepalings van sub-paragraaf (v) van paragraaf (a) van sub-artikel (1) van artikel *een* nie geag so 'n verhoging teweeg te bring nie,

4. Artikel *drie-en-twintig* van die Hoofwet word hiermee gewysig deur die volgende verdere voorbehoudsbepalings aan die end van sub-artikel (1) by te voeg:

Wysiging van artikel 23 van Wet 40 van 1925.

„Met dien verstande voorts dat in het geval van iemand die goudmijn-operaties voortzet, en die na de een en dertigste dag van December 1935, aanvangt goud te produceren, het bedrag dat afgetrokken moet worden, met betrekking tot elk jaar van aanslag, ten opzichte van de kapitaaluitgaven die toegelaten worden voor delging en die voor de datum van de aanvang van bedoelde produktie door zo iemand opgelopen zijn, totdat het totaal van de afgetrokken bedragen gelijk is aan het bedrag van bedoelde kapitaaluitgaven, een bedrag is dat, wanneer het vermenigvuldigd wordt bij tien, of waar het leven van de mijn volgens schatting ingevolge de bepalingen van sub-artikels (2) en (3) minder dan tien jaren belooft, bij zodanig minder getal, gelijk is aan het bedrag van bedoelde kapitaaluitgaven: Met dien verstande voorts dat de bepalingen van de onmiddellijk voorafgaande voorbehoudsbepaling niet van toepassing zijn ten aanzien van kapitaaluitgaven die op of na de datum van de aanvang van bedoelde produktie door zo iemand opgelopen zijn.”

Repeal of laws.

5. The Gold Mines Excess Profits Duty Act, 1933, the Gold Mines Excess Profits Duty (Amendment) Act, 1934, and the Gold Mines Excess Profits Duty Amendment Act, 1935, are hereby repealed with effect from the first day of January, 1936: Provided that any gold mines excess profits duty or gold profits surtax which would be leviable under any of the said Acts, in respect of any period prior to the first day of January, 1936, and which has not been assessed or collected at the commencement of this Act, may be assessed and collected in accordance with and subject to the provisions of those Acts, as if they had not been repealed.

Short title.

6. This Act shall be called the Income Tax Act, 1936.

5. Die Goudmyne-Oorwinsbelastingwet, 1933, die Goudmyne-Oorwinsbelasting Wysigingswet, 1934 en die Goudmyne-Oorwinsbelasting Wysigingswet, 1935, word hiermee herroep met ingang vanaf die eerste dag van Januarie 1936: Met dien verstande dat enige goudmyne-oorwinsbelasting of goudwins-ekstrabelasting wat kragtens enige van daardie wette ten opsigte van 'n tydperk voor die eerste dag van Januarie 1936, hefbaar sou wees, en wat nie by die inwerkingtreding van hierdie Wet aangeslaan of gein is nie, aangeslaan en gein kan word ooreenkomstig en met inagneming van die bepalings van daardie wette, asof hul nie herroep was nie. Herroeping van wette.

6. Hierdie Wet heet die Inkomstebelastingwet, 1936. Kort titel.

No. 36, 1939.]

ACT

To amend the Public Service and Pensions Act, 1923.

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

Amendment of section 3 of Act 27 of 1923.

1. Section *three* of the Public Service and Pensions Act, 1923 (hereinafter referred to as the principal Act), is hereby amended—

(a) by the deletion of sub-section (4) and the substitution therefor of the following sub-section:

“(4) A recommendation made by any two members of the Commission shall be deemed for the purpose of this Act or any other law to be a recommendation made by the Commission”; and

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

“(5) If, at any meeting of the Commission at which two members only are present, those members differ upon any matter, the determination of that matter shall be postponed to a full meeting of the Commission”.

Amendment of section 4 of Act 27 of 1923.

2. Sub-section (1) of section *four* of the principal Act is hereby deleted and the following sub-section substituted therefor:

“(1) Every recommendation of the Commission which relates to a particular person shall be carried out, unless the Governor-General has authorized its entire or partial rejection. If the Governor-General has not authorized the rejection of any such recommendation, or any part thereof, within a period of six months from the date upon which it was made, the Minister or administrator concerned shall forthwith give effect to the recommendation.”

Amendment of section 6 of Act 27 of 1923.

3. Section *six* of the principal Act is hereby amended by the deletion of the first proviso and of the word “further” in the second proviso.

Amendment of section 9 of Act 27 of 1923.

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

(a) by the substitution of the words “the Union or the mandated territory of South-West Africa” for the words South Africa”, wherever they occur in sub-section (4); and

(b) by the deletion of sub-section (5) and the substitution therefor of the following sub-section:

(5) Within a month from the commencement of each session of Parliament the Minister of the Interior shall lay upon the Tables of both Houses of Parliament a return showing—

(a) the name of every person appointed to any office or post in the public service during the preceding twelve months who has not, before his appointment, resided for three years in the Union or the mandated territory of South-West Africa;

(b) the office or post to which such person has been appointed;

(c) the salary attached to such office or post;

(d) the qualifications of the person appointed and special reasons for the appointment; and

(e) the period for which such person has been appointed.”

Substitution of section 13 of Act 27 of 1923.

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

“Scales of salaries of officers. 13. Officers shall be paid salaries, wages or allowances in accordance with scales recommended by the Commission, unless the Governor-General has expressly prescribed the payment to them of salaries, wages or allowances in accordance with other scales: Provided that, on the recommendation of the Commission—

(a) an officer may, on appointment, be paid a higher salary or wage than the minimum of the appropriate scale; and

No. 36, 1936.]

WET

Tot wysiging van die „Staatsdienst- en Pensioen-Wet, 1923”.

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

1. Artikel drie van die „Staatsdienst- en Pensioen-Wet, 1923” (hieronder die Hoofwet genoem) word hiermee gewysig— Wysiging van artikel 3 van Wet 27 van 1923.

(a) deur sub-artikel (4) te skrap en te vervang deur die volgende sub-artikel:

„(4) Een aanbeveling gedaan door twee leden van de Kommissie wordt bij de toepassing van deze of welke andere wet ook, aangemerkt als een aanbeveling door de Kommissie gedaan”; en

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

„(5) Indien op een bijeenkomst van de Kommissie waarop slechts twee leden van de Kommissie aanwezig zijn, die leden omtrent een of andere aangelegenheid van elkander verschillen, wordt de beslissing van die aangelegenheid uitgesteld tot een voltallige bijeenkomst van de Kommissie”.

2. Sub-artikel (1) van artikel vier van die Hoofwet word hiermee geskrap en deur die volgende sub-artikel vervang: Wysiging van artikel 4 van Wet 27 van 1923.

„(1) Iedere aanbeveling van de Kommissie die op een bepaalde persoon betrekking heeft, wordt uitgevoerd, tenzij de Goeverneur-generaal de gehele of gedeeltelike verwerping ervan veroorloofd heeft. Indien de Goeverneur-generaal de verwerping van zulk een aanbeveling of van een deel ervan niet binnen zes maanden vanaf de dag waarop de aanbeveling gedaan werd, veroorloofd heeft, geeft de betrokken Minister of administrateur onverwijld gevolg aan de aanbeveling”.

3. Artikel ses van die Hoofwet word hiermee gewysig deur die eerste voorbehoudsbepaling en die woord „voorts” in die tweede voorbehoudsbepaling te skrap. Wysiging van artikel 6 van Wet 27 van 1923.

4. Artikel nege van die Hoofwet word hiermee gewysig— Wysiging van artikel 9 van Wet 27 van 1923.

(a) deur die woorde „Zuid-Afrika” orals waar hulle in sub-artikel (4) voorkom te vervang deur die woorde „de Unie of in het mandaatgebied Zuidwest-Afrika”; en

(b) deur sub-artikel (5) te skrap en te vervang deur die volgende sub-artikel:

„(5) Binnen een maand vanaf het begin van iedere zitting van het Parlement, legt de Minister van Binnenlandse Zaken in beide Huizen van het Parlement ter Tafel een opgave van—

(a) de naam van iedere binnen de voorafgaande twaalf maanden in een betrekking of post in de staatsdienst aangestelde persoon die vòòr zijn aanstelling niet gedurende drie jaar in de Unie of in het mandaatgebied Zuidwest-Afrika gewoon heeft;

(b) de betrekking of post waarin die persoon aangesteld werd;

(c) het salaris aan die betrekking of post verbonden;

(d) de kwalifikaties van de aangestelde en de bijzondere redenen voor de aanstelling; en

(e) het tijdperk waarvoor die persoon aangesteld werd”.

5. Artikel dertien van die Hoofwet word hiermee herroep en deur die volgende artikel vervang: Vervanging van artikel 13 van Wet 27 van 1923.

13. Beambten ontvangen salarissen, lonen of toelagen volgens schalen, door de Kommissie aanbevolen, tenzij de Goeverneur-generaal uitdrukkelijk de betaling aan hen van salarissen, lonen of toelagen volgens andere schalen voorgeschreven heeft: Met dien verstande dat op aanbeveling van de Kommissie—

(a) aan een beambte bij zijn aanstelling een hoger salaris of loon betaald kan worden dan het minimum van de toepasselijke schaal; en

„Salaris-schalen van beambten.

- (b) an officer may be specially advanced within the scale applicable to him; and
- (c) an officer of exceptional ability or possessing special qualifications may be paid salary or wages or allowances at special rates within or above the above-mentioned scales."

Amendment of section 17 of Act 27 of 1923.

6. Section *seventeen* of the principal Act is hereby amended by the addition at the end of sub-section (2) of the words :

" Provided further that an officer shall not be transferred from one office or post to another office or post graded on a different salary or scale of pay, or bearing a different designation, unless the Commission has recommended the transfer, or unless each one of the two offices or posts in question is an office or post in the services or a non-prescribed post in the general division."

Substitution of section 18 of Act 27 of 1923.

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

" Inefficient officers. 18. (1) If the head of a department reports to the Minister or administrator that any officer (other than an officer referred to in sub-section (3) of section *nineteen* and other than a member of the services) in his department, or if an inspector appointed under section *seven* reports to the Minister or administrator that any officer in any department (other than an officer referred to in sub-section (3) of section *nineteen* and other than a member of the services) is unfitted for, or incapable of performing efficiently, the duties of his office or post, the Minister or administrator shall appoint a person to enquire into the subject matter of that report. Such person shall have all the powers conferred upon the Commission by sub-section (2) of section *five*.

(2) The person who is to hold the enquiry shall, in consultation with the head of the department in which the officer concerned is employed, fix the time and place of the enquiry, and the said head of department shall give the officer concerned reasonable notice of the time and place so fixed and shall furnish him with a written statement of the grounds on which it is alleged that he is unfitted for, or incapable of performing efficiently, the duties of his office or post.

(3) The head of the department in which the officer concerned is employed may authorize any person to attend the enquiry and to adduce evidence and arguments in support of the allegations mentioned in sub-section (2), and to cross-examine any person who has given evidence to rebut those allegations.

(4) At the enquiry the officer concerned may be present and be heard either personally or by a representative, cross-examine any person called as a witness in support of the allegations mentioned in sub-section (2), inspect any documents produced in evidence, give evidence himself and call any other person as a witness. The person holding the enquiry shall keep a record of the proceedings at the enquiry and of all evidence given thereat. The failure of the officer concerned to attend the enquiry shall not invalidate the proceedings.

(5) At the conclusion of the enquiry the person holding it shall find whether or not the officer concerned is unfitted for, or incapable of performing efficiently, the duties of his office or post, shall inform the officer of his finding and shall report the result of the enquiry to the Minister or administrator who appointed him.

(6) If the person who held the enquiry has found that the officer concerned is unfitted for, or incapable of performing efficiently the duties of his post, the said officer may, within a

- (b) een beambte binnen de perken van de op hem toepasselijke schaal speciaal verhoogd kan worden; en
- (c) aan een beambte van buitengemene bekwaamheid of in bezit van speciale kwalifikaties een salaris of loon of toelagen volgens een speciale schaal binnen of boven de perken van voormelde schalen betaald kunnen worden".

6. Artikel *seventien* van die Hoofwet word hiermee gewysig deur die volgende woorde aan die end van sub-artikel (2) by te voeg: „Met dien verstande, voorts, dat een beambte niet van een betrekking of post overgeplaatst mag worden naar een andere betrekking of post die gerangschikt is volgens een ander salaris of een andere schaal van bezoldiging, of die een andere benaming draagt, tenzij de Kommissie de overplaatsing aanbevolen heeft of tenzij ieder van de twee betrokken betrekkingen of posten is een betrekking of post in de diensten of een niet-voorgeschreven post in de algemene tak van dienst”.

Wysiging van artikel 17 van Wet 27 van 1923.

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

Vervanging van artikel 18 van Wet 27 van 1923.

„Onbekwame beampten.

18. (1) Indien het hoofd van een departement aan de Minister of administrateur bericht, dat een beambte in zijn departement die niet een beambte bedoeld in sub-artikel (3) van artikel *negentien* of een lid van de diensten is, of indien een krachtens artikel *zeven* aangestelde inspekteur aan de Minister of administrateur bericht, dat een beambte in welk departement ook al, die niet een beambte bedoeld in sub-artikel (3) van artikel *negentien* of een lid van de diensten is, ongeschikt voor zijn betrekking of post is of niet in staat is om zijn werkzaamheden daarin op bekwame wijze te verrichten, dan stelt de Minister of administrateur iemand aan om het onderwerp van het bericht te onderzoeken. Bedoelde persoon heeft alle door sub-artikel (2) van artikel *vijf* aan de Kommissie verleende bevoegdheden.

(2) De persoon die het onderzoek moet houden, bepaalt, in overleg met het hoofd van het departement waarin de betrokken beambte in dienst is, tijd en plaats van het onderzoek en bedoeld departementshoofd geeft aan de betrokken beambte een redelijke tijd vooraf kennis van de aldus bepaalde tijd en plaats en verstrekt aan hem een schriftelijke meedeling van de redenen waarom beweerd wordt dat hij ongeschikt is voor zijn betrekking of post of niet in staat is om zijn werkzaamheden daarin op bekwame wijze te verrichten.

(3) Het hoofd van het departement waarin de betrokken beambte in dienst is, kan iemand machtigen om het onderzoek bij te wonen en de in sub-artikel (2) bedoelde beweringen door bewijzen en argumenten te staven en iemand, die getuigenis afgelegd heeft tot weerlegging van die beweringen, onder kruisverhoor te nemen.

(4) Bij dat onderzoek kan de betrokken beambte tegenwoordig zijn en persoonlijk of bij gemachtigde zijn zaak voordragen, iedere tot staving van de in sub-artikel (2) bedoelde beweringen als getuige opgeroepen persoon onder kruisverhoor nemen, alle als getuigenis overgelegde stukken inzien, zelf getuigenis afleggen en een andere persoon als getuige oproepen. De persoon die het onderzoek houdt, notuleert de verrichtingen bij het onderzoek en alle aangevoerde getuigenis. Indien de betrokken beambte in gebreke blijft om het onderzoek bij te wonen, worden de verrichtingen daardoor niet ongeldig.

(5) Aan het einde van het onderzoek beslist de persoon, die het onderzoek houdt, of de betrokken beambte al dan niet ongeschikt is voor zijn betrekking of post of al dan niet in staat is om zijn werkzaamheden op bekwame wijze te verrichten, deelt zijn beslissing aan de beambte mee, en bericht de uitslag van het onderzoek aan de Minister of administrateur die hem aanstelde.

(6) Indien de persoon die het onderzoek hield, beslist heeft dat de betrokken beambte ongeschikt is voor zijn betrekking of post of niet in staat is om zijn werkzaamheden daarin op bekwame wijze te verrichten, dan kan bedoelde

period of seven days as from the date upon which he was informed of the finding, appeal therefrom to the Commission by delivering or forwarding by post to the person who held the enquiry a written notice of appeal wherein he shall set forth fully the grounds upon which the appeal is based.

(7) If the person who held the enquiry has found in terms of sub-section (6) he shall forward to the Commission the record of the proceedings at the enquiry, a written statement of his finding and his reasons therefor and any observations on the case which he may desire to offer. If an appeal has been noted, as aforesaid, he shall forward with the record the notice and grounds of appeal, and shall furnish the officer concerned with a copy of the reasons for his finding.

(8) If the said officer, within a period of seven days as from the date upon which he received a copy of the reasons for the finding, applies to the Commission for a copy of the record of the proceedings at the enquiry, the Commission shall furnish him with such a copy. If the Commission allows the appeal or substantially modifies the finding in terms of sub-section (12), the said sum shall be refunded to the appellant, but if the Commission dismisses the appeal, the said sum shall be paid into the Consolidated Revenue Fund.

(9) The officer concerned may within a period of seven days as from the date upon which he received the copy of the record of the proceedings, or if he did not apply for a copy of the record, within a period of fourteen days as from the date upon which he received the copy of the reasons for the finding, submit to the Commission written representations, in quadruplicate, in support of his appeal.

(10) The Commission shall forward to the head of the department in which the officer concerned is employed a copy of the record and documents mentioned in sub-section (7) and one copy of the representations mentioned in sub-section (9).

(11) The said head of the department may, within a period of fourteen days as from the date upon which he received the documents mentioned in sub-section (10), submit to the Commission, in triplicate, any representations which he desires to make in support of the finding against which the appeal is brought.

(12) After consideration of the aforesaid record and documents, the Commission may allow the appeal wholly or in part and reverse or modify the finding or dismiss the appeal and confirm the finding wholly or in part, or the Commission may, before arriving at a final decision on the appeal, remit any question in connection with the enquiry to the person who held the enquiry, and direct him to report thereon or to hold a further enquiry and arrive at a finding thereon.

(13) If the Commission directs the holding of a further enquiry, the provisions of sub-sections (3) and (4) shall apply.

(14) When the Commission has arrived at a final decision on an appeal, it shall convey that decision in writing to the appellant and to the Minister or administrator.

(15) If the person who held the enquiry found that the officer concerned is unfitted for or incapable of performing efficiently the duties of his office or post and the said officer did not appeal against the finding as hereinbefore provided, or if he did so appeal and his appeal was dismissed, the Commission shall forward the record and all other documents relating to the enquiry to the Minister or administrator and recommend—

(a) that no further action be taken in the matter ;
or

beambte binnen een termijn van zeven dagen vanaf de dag waarop de beslissing aan hem meegedeeld werd, bij de Kommissie daartegen appelleren, door aan de persoon die het onderzoek hield, te overhandigen of over de post te zenden een schriftelijke kennisgeving van appèl, waarin hij de redenen waarop zijn appèl steunt, volledig aanvoert.

(7) Indien de persoon, die het onderzoek hield, in de zin van sub-artikel (6) beslist heeft, zendt hij aan de Kommissie de notulen van de verrichtingen bij het onderzoek, een optekening van zijn beslissing en zijn redenen daarvoor en de toelichtingen van de zaak die hij wenselijk acht. Indien, zoals voormeld, appèl aangetekend is, zendt hij met de notulen de kennisgeving en redenen voor het appèl en verstrekt aan de betrokken beambte een afschrift van de redenen voor zijn beslissing.

(8) Indien bedoelde beambte binnen een termijn van zeven dagen vanaf de dag waarop hij een afschrift van de redenen voor de beslissing ontvangen heeft, bij de Kommissie een afschrift van de notulen van de verrichtingen bij het onderzoek aanvraagt, verstrekt de Kommissie aan hem zulk een afschrift. Indien de Kommissie volgens sub-artikel (12) het appèl toestaat of de beslissing aanmerkelijk wijzigt, wordt bedoeld bedrag aan de appellant terugbetaald, doch indien de Kommissie het appèl afwijst, word bedoeld bedrag in het Gekonsolideerde Inkomstefonds gestort.

(9) De betrokken beambte kan binnen een termijn van zeven dagen vanaf de dag waarop hij de notulen van de verrichtingen van het onderzoek ontving, of, indien hij geen afschrift van de notulen gevraagd heeft, binnen een termijn van veertien dagen vanaf de dag waarop hij een afschrift van de redenen voor de beslissing ontving, bij de Kommissie een schriftelijk vertoog in viervoud tot ondersteuning van zijn appèl indienen.

(10) De Kommissie zendt aan het hoofd van het departement waarin de betrokken beambte in dienst is, een afschrift van de notulen en stukken vermeld in sub-artikel (7) en één exemplaar van het vertoog bedoeld in sub-artikel (9).

(11) Bedoeld departementshoofd kan binnen een termijn van veertien dagen vanaf de dag waarop hij de in sub-artikel (10) bedoelde stukken ontving, bij de Kommissie een vertoog in drievoud, dat hij mocht wensen te doen, indienen tot staving van de beslissing waartegen geappelleerd wordt.

(12) Na overweging van voormelde notulen en stukken kan de Kommissie het appèl ten volle of ten dele toestaan en de beslissing vernietigen of wijzigen of het appèl afwijzen en de beslissing ten volle of ten dele bekrachtigen of de Kommissie kan, alvorens het appèl finaal uit te wijzen, een of andere vraag in verband met het onderzoek terugverwijzen naar de persoon die het onderzoek hield, en hem gelasten daaromtrent verslag te doen of om een verder onderzoek te houden en daaromtrent te beslissen.

(13) Indien de Kommissie het houden van een verder onderzoek gelast, zijn de bepalingen van sub-artikels (3) en (4) van toepassing.

(14) Wanneer de Kommissie het appèl finaal uitgewezen heeft, deelt hy zijn besluit schriftelijk mee aan de appellant en aan de Minister of administrateur.

(15) Indien de persoon, die het onderzoek hield, beslist heeft dat de betrokken beambte ongeschikt is voor zijn betrekking of post of niet in staat is om zijn werkzaamheden daarin op bekwame wijze te verrichten, en voormelde beambte niet volgens voorgaande bepalingen tegen de beslissing geappelleerd heeft, of indien hij wel aldus geappelleerd heeft en zijn appèl afgewezen werd, zendt de Kommissie de notulen en alle andere op het onderzoek betrekking hebbende stukken aan de Minister of administrateur en beveelt aan—

(a) dat geen verdere stappen in de zaak gedaan worden; of

- (b) that the officer concerned be transferred to another office or post of the same or a lower grade with such salary on the relative scale of pay as the Commission may recommend ; or
- (c) that the said officer be discharged from the public service with such pension as may be payable to him,
- and thereupon the Minister or administrator may adopt the course recommended by the Commission or, subject to the provisions of sub-section (1), of section *four*, any other course which the Commission could lawfully have recommended under this sub-section."

Amendment of section 19 of Act 27 of 1923.

8. Section *nineteen* of the principal Act is hereby amended—

- (i) by the deletion from paragraph (b) of sub-section (1) of the words "occasioned without such person's own default";
- (ii) by the deletion from paragraph (c) of sub-section (1) of all words after the words "public service";
- (iii) by the insertion in sub-section (1) of the following new paragraph (d) after paragraph (c), and by designating the existing paragraphs (d) and (e) as (e) and (f) respectively:—
- "(d) if his discharge will promote efficiency or economy in the department or office to which he belongs";
- (iv) by the deletion of the second proviso to sub-section (1);
- (v) by the insertion in sub-section (3) after the word "terminated" of the words "upon the recommendation of the Commission."

Amendment of section 20 of Act 27 of 1923.

9. Section *twenty* of the principal Act is hereby amended—

- (i) by the deletion of paragraph (c) of sub-section (1) and the substitution therefor of the following paragraph:
- "(c) does, or causes or permits to be done, or connives at, any act which is prejudicial to the administration, discipline or efficiency of any department, office or institution in the public service.";
- (ii) by the deletion of sub-section (2).

Substitution of section 21 of Act 27 of 1923.

10. Section *twenty-one* of the principal Act is hereby repealed, and the following section substituted therefor:

"Charge of misconduct.

21. (1) When an officer in the public service (other than the services) is accused of misconduct, the head of the department in which he is employed or any other officer in that department who has been authorized thereto by the head of the department, may charge him in writing under his hand with that misconduct.

(2) The person who signed the charge shall cause it to be sent by post in a registered letter or to be delivered to the officer charged or to be left at his last known place of residence.

(3) The charge shall contain or shall be accompanied by a direction calling upon the officer charged to transmit or deliver, within a reasonable period specified in the direction, to a person likewise specified, a written admission or denial of the charge and, if he so desires, a written explanation of the misconduct charged.

(4) The Minister or administrator, or if authorized thereto by the Minister or administrator, either specially in a particular case, or generally, the head of the department in which an officer who has been charged as aforesaid is employed, or any other officer in that department, may suspend the officer charged from duty.

(5) An officer who has been suspended from duty as aforesaid shall not be entitled to any emoluments for the period of his suspension: Provided that the Minister or the administrator may, in his discretion, order payment to such officer of the whole or a portion of his emoluments.

(6) The Minister or administrator may at any time cancel the suspension, but such cancellation shall in no way affect the prosecution of the charge.

- (b) dat de betrokken beambte overgeplaatst wordt in een andere betrekking of post van dezelfde of een lagere rang, met het salaris, aan de toepasselijke schaal van bezoldiging verbonden, dat de Kommissie mocht aanbevelen; of
- (c) dat de betrokken beambte uit de staatsdienst ontslagen wordt met het pensioen dat hem rechtens mocht toekomen,

en de Minister of administrateur kan daarop volgens aanbeveling van de Kommissie handelen of kan, behoudens de bepalingen van sub-artikel (1) van artikel vier, een andere weg inslaan die de Kommissie krachtens dit sub-artikel wettig had kunnen aanbevelen."

8. Artikel *negentien* van die Hoofwet word hiermee gewysig— Wysiging van artikel 19 van Wet 27 van 1923.

(i) deur die woorde „veroorzaakt buiten het toedoen van die persoon" in paragraaf (b) van sub-artikel (1) te skrap;

(ii) deur al die woorde na die woord „staatsdienst" in paragraaf (c) van sub-artikel (1) te skrap;

(iii) deur die volgende nuwe paragraaf (d) na paragraaf (c) in sub-artikel (1) in te voeg en die bestaande paragrawe (d) en (e), respektiewelik, as (e) en (f) aan te dui:

„(d) indien zijn ontslag strekken zal tot grotere bekwaamheid of bezuiniging in het departement of kantoor waartoe hij behoort";

(iv) deur die tweede voorbehoudsbepaling tot sub-artikel (1) te skrap;

(v) deur in sub-artikel (3) die woorde „op aanbeveling van de Kommissie" na die woord „gedelegeerd" in te voeg.

9. Artikel *twintig* van die Hoofwet word hiermee gewysig— Wysiging van artikel 20 van Wet 27 van 1923.

(i) deur paragraaf (c) van sub-artikel (1) te skrap en te vervang deur die volgende paragraaf:

„(c) een handeling die tot nadeel strekt van de administratie, tucht of bekwaamheid in een of ander departement, kantoor of inrichting in de staatsdienst, verricht, doet verrichten of de verrichting ervan toelaat of door de vingers ziet".

(ii) deur sub-artikel (2) te skrap.

10. Artikel *een-en-twintig* van die Hoofwet word hiermee herroep en deur die volgende artikel vervang: Vervanging van artikel 21 van Wet 27 van 1923.

„Aanklacht wegens wangedrag.

21. (1) Wanneer een beambte in de staatsdienst (buiten de diensten) van wangedrag beschuldigd wordt, dan kan het hoofd van het departement waarin hij in dienst is of een andere beambte in dat departement die het hoofd van het departement daartoe gemachtigd heeft, hem schriftelik onder zijn handtekening van dat wangedrag aanklagen.

(2) Degene die de aanklacht ondertekend heeft, doet dezelve aan de aangeklaagde beambte over de post in een geregistreerde brief zenden of overhandigen of bij zijn laatste bekende woonplaats afgeven.

(3) De aanklacht bevat of gaat vergezeld van een aanzegging van de aangeklaagde beambte om binnen een redelike, in de aanzegging vastgestelde termijn een schriftelike erkenning of ontkenning van de aanklacht en indien hij verkiest, een schriftelike verklaring van het hem ten laste gelegde wangedrag aan een in de aanzegging aangegeven persoon te zenden of te overhandigen.

(4) De Minister of administrateur of indien door de Minister of administrateur, hetzij speciaal in een bepaald geval of in het algemeen daartoe gemachtigd, het hoofd van het departement waarin een beambte, die zoals voormeld aangeklaagd werd, in dienst is of een andere beambte in dat departement, kan de aangeklaagde beambte in zijn dienst schorsen.

(5) Een in zijn dienst geschorste beambte is niet gerechtigd tot bezoldiging gedurende zijn schorsing, doch de Minister of administrateur kan, indien hij het wenselik acht, gelasten dat aan bedoelde beambte zijn hele bezoldiging of een gedeelte ervan uitbetaald wordt.

(6) De Minister of administrateur kan te eniger tijd de schorsing intrekken, doch die intrekking maakt geen inbreuk op de afhandeling van de aanklacht.

(7) If the officer charged denies the charge or fails to comply with the direction mentioned in sub-section (3) the Minister or administrator shall appoint an officer of a rank not lower than the rank of a second grade magistrate to enquire into the charge. The officer who is to hold the enquiry shall have all the powers conferred upon the Commission by sub-section (2) of section *five*.

(8) The officer who is to hold the enquiry shall, in consultation with the person who signed the charge, fix the time and place of the enquiry and the person who signed the charge shall give the officer charged reasonable notice of the time and place so fixed.

(9) The person who signed the charge may authorize any person to attend the enquiry and to adduce evidence and arguments in support of the charge and to cross-examine any person called as a witness for the defence.

(10) At the enquiry the officer charged may be present and be heard either personally or by a representative, cross-examine any person called as a witness in support of the charge, inspect any document produced in evidence, give evidence himself and call any other person as a witness. The person holding the enquiry shall keep a record of the proceedings at the enquiry and of all evidence given thereat. The failure of the officer charged to attend the enquiry shall not invalidate the proceedings.

(11) If the misconduct with which the officer is charged amounts to an offence of which he has been convicted by a court of law, a certified copy of the record of his trial and conviction by that court shall be sufficient proof of the commission by him of such offence, unless the conviction has been set aside by a superior court: Provided that it shall be competent for the officer charged to adduce evidence that he was in fact wrongly convicted.

(12) At the conclusion of the enquiry the person holding it shall find whether the officer charged is guilty or not guilty of the misconduct with which he was charged and shall inform the officer charged of his finding. He shall report the result of the enquiry to the Minister or administrator who appointed him.

(13) If the officer charged was suspended from duty and the person holding the enquiry finds that he is not guilty of the misconduct with which he was charged, the said officer shall be re-instated in his post and paid his full emoluments for the period of his suspension.

(14) If the person holding the enquiry finds the officer charged guilty of the misconduct with which he was charged, the provisions of sub-section (6) of section *eighteen* shall *mutatis mutandis* apply.

(15) If the person who held the enquiry has found in terms of sub-section (14) he shall forward to the Commission the record of the proceedings at the enquiry and any documentary evidence admitted thereat, a statement of his finding and his reasons therefor, and any observations on the case which he may desire to offer: Provided that if the officer found guilty of misconduct is employed in the general division in a post other than a prescribed post, and he has not noted an appeal against the finding, as hereinbefore provided, the person who held the enquiry shall forward the said record and other documents not to the Commission but to the head of the department in which the said officer is employed.

(16) If the officer found guilty of misconduct has noted an appeal, the person who held the

(7) Indien de aangeklaagde beambte de aanklacht ontkent of in gebreke blijft om aan de in sub-artikel (3) bedoelde aanzegging gevolg te geven, stelt de Minister of administrateur een beambte aan, die een rang bekleedt, niet lager dan de rang van een magistraat tweede graad, om de aanklacht te onderzoeken. De beambte, die het onderzoek moet houden, heeft alle door sub-artikel (2) van artikel vijf aan de Kommissie verleende bevoegdheden.

(8) De beambte, die het onderzoek moet houden, bepaalt, in overleg met degene die de aanklacht ondertekende, tijd en plaats van het onderzoek en degene die de aanklacht ondertekende, geeft aan de aangeklaagde beambte een redelijke tijd vooraf kennis van de aldus bepaalde tijd en plaats.

(9) Degene die de aanklacht ondertekende, kan iemand machtigen om het onderzoek bij te wonen en de aanklacht door bewijzen en argumenten te staven en iemand die als verdedigingsgetuige opgeroepen werd, onder kruisverhoor te nemen.

(10) Bij dat onderzoek kan de aangeklaagde beambte tegenwoordig zijn en persoonlijk of bij gemachtigde zijn zaak voordragen, iedere tot staving van de aanklacht als getuige opgeroepen persoon onder kruisverhoor nemen, alle als getuigenis voorgelegde stukken inzien, zelf getuigenis afleggen en een andere persoon als getuige oproepen. De persoon die het onderzoek houdt, notuleert de verrichtingen bij het onderzoek en alle aangevoerde getuigenis. Indien de aangeklaagde beambte in gebreke blijft om het onderzoek bij te wonen, worden de verrichtingen daardoor niet ongeldig.

(11) Indien het wangedrag waarvan de beambte aangeklaagd wordt, een misdrijf uitmaakt waaraan een gerechtshof hem schuldig bevonden heeft, dan strekt een gecertificeerd afschrift van de notulen van zijn terechtstelling en schuldigbevinding door dat hof tot voldoende bewijs dat hij dat misdrijf gepleegd heeft, tenzij de schuldigbevinding door een hoger hof vernietigd werd: Met dien verstande dat de aangeklaagde beambte bevoegd is om getuigenis aan te voeren dat hij inderdaad ten onrechte schuldig bevonden werd.

(12) Aan het einde van het onderzoek beslist de persoon die het houdt, of de aangeklaagde beambte schuldig of onschuldig is aan het hem ten laste gelegde wangedrag en deelt aan de aangeklaagde beambte zijn beslissing mee. Hij bericht de uitslag van het onderzoek aan de Minister of administrateur die hem aanstelde.

(13) Indien de aangeklaagde beambte in zijn dienst geschorst werd en de persoon, die het onderzoek houdt, beslist dat hij aan het hem ten laste gelegde wangedrag onschuldig is, wordt bedoelde beambte in zijn post hersteld en ontvangt zijn bezoldiging ten volle over het tijdperk van zijn schorsing.

(14) Indien de persoon, die het onderzoek houdt, beslist dat de aangeklaagde beambte aan het hem ten laste gelegde wangedrag schuldig is, zijn de bepalingen van sub-artikel (6) van artikel achttien *mutatis mutandis* van toepassing.

(15) Indien de persoon die het onderzoek hield, in de zin van sub-artikel (14) beslist heeft, zendt hij aan de Kommissie de notulen van de verrichtingen bij het onderzoek en alle schriftelijke bewijsstukken die daarbij toegelaten werden, een optekening van zijn beslissing en zijn redenen daarvoor en de toelichtingen van de zaak die hij wenselijk acht: Met dien verstande dat indien de aan wangedrag schuldig bevonden beambte in dienst is in de algemene tak van dienst in een andere post dan een voorgeschreven post en hij niet volgens voorgaande bepalingen appèl tegen zijn schuldigbevinding aangetekend heeft, de persoon die het onderzoek hield, bedoelde notulen en andere stukken zendt niet aan de Kommissie, doch aan het hoofd van het departement waarin bedoelde beambte in dienst is.

(16) Indien de aan wangedrag schuldig bevonden beambte appèl aangetekend heeft, zendt de persoon

enquiry shall forward to the Commission, with the record and other documents, mentioned in sub-section (15), the appellant's notice and grounds of appeal and shall furnish the appellant with a copy of the reasons for the finding against which the appeal is brought.

(17) If an appeal has been noted, as hereinbefore provided, the provisions of sub-sections (8) to (14) inclusive of section *eighteen* shall *mutatis mutandis* apply.

(18) If the Commission allows the appeal of an appellant who was suspended from duty, he shall be re-instated in his post and paid his full emoluments for the period of his suspension.

(19) If the record and documents mentioned in sub-section (15) have in terms of that sub-section been forwarded to the head of the department in which the officer found guilty of misconduct is employed, or if the said record and documents have in terms of that sub-section been forwarded to the Commission and no appeal was noted against the finding, or if the Commission has dismissed an appeal, wholly or in part, the said head of department or the Commission, as the case may be, shall determine whether in his or its opinion the misconduct of which the said officer was found guilty, is or is not of a serious nature.

(20) If the said head of department or the Commission, as the case may be, has determined that the misconduct of which the officer has been found guilty, is not of a serious nature, he or it may recommend that the Minister or administrator—

- (a) caution or reprimand the said officer; or
- (b) impose upon him a fine not exceeding five pounds,

and the Minister or administrator may thereupon adopt the course recommended or the other course which could have been lawfully recommended under this sub-section.

(21) If the said head of department or the Commission, as the case may be, has determined that the misconduct of which the officer has been found guilty, is of a serious nature, he or it may recommend that the Minister or administrator—

- (a) caution or reprimand the said officer; or
- (b) impose upon him a fine not exceeding one hundred pounds, which may be recovered in such instalments as the Minister or administrator may determine, by deduction from the officer's emoluments; or
- (c) reduce his emoluments or grade or both his emoluments and his grade to an extent recommended; or
- (d) discharge him from the public service or call upon him to resign therefrom as from a date to be specified by the Minister or administrator,

and the Minister or administrator may thereupon adopt the course recommended, or any other course which the head of department or the Commission could lawfully have recommended under this sub-section, but subject to the provisions of sub-section (1) of section *four* in the case of a recommendation of the Commission.

(22) The Commission shall forward to the Minister or administrator with its recommendation in terms of sub-section (20) or (21) the record of the proceedings at the enquiry and all documents in its possession which relate to the enquiry or to the appeal.

(23) If an officer charged in terms of sub-section (1) admits the charge he shall be deemed to be guilty of the misconduct with which he was charged.

(24) If he is employed in the general division in a post other than a prescribed post, the head of the department in which he is employed shall

die het onderzoek hield, met de in sub-artikel (15) bedoelde notulen en andere stukken, de kennisgeving van appèl van de appellant en zijn redenen voor het appèl aan de Kommissie en verstrekt aan de appellant een afschrift van de redenen voor de beslissing waartegen geappelleerd wordt.

(17) Indien een appèl volgens voorgaande bepalingen aangetekend werd, zijn de bepalingen van sub-artikels (8) tot en met (14) van artikel *achtien mutatis mutandis* van toepassing.

(18) Indien de Kommissie het appèl van een appellant die in zijn dienst geschorst werd, toestaat, wordt hij in zijn post hersteld en ontvangt zijn bezoldiging ten volle over het tijdperk van zijn schorsing.

(19) Indien de in sub-artikel (15) bedoelde notulen en stukken ingevolge dat sub-artikel gezonden werden aan het hoofd van het departement waarin de aan wangedrag schuldig bevonden beambte in dienst is, of indien bedoelde notulen en stukken ingevolge dat sub-artikel aan de Kommissie gezonden werden en geen appèl tegen de beslissing aangetekend werd of indien de Kommissie een appèl geheel of gedeeltelijk afgewezen heeft, bepaalt respectievelijk voormeld departementshoofd of de Kommissie of het wangedrag, waaraan bedoelde beambte schuldig bevonden werd, naar het oordeel respectievelijk van het departementshoofd of van de Kommissie al dan niet van ernstige aard is.

(20) Indien respectievelijk bedoeld departementshoofd of de Kommissie bepaald heeft dat het wangedrag waaraan bedoelde beambte schuldig bevonden werd, niet van ernstige aard is, kan hij aanbevelen dat de Minister of administrateur—

- (a) bedoelde beambte waarschuwt of berispt; of
- (b) aan hem een boete van ten hoogste vijf pond oplegt;

en daarop kan de Minister of administrateur volgens de aanbeveling handelen of de andere weg inslaan, die ingevolge dit sub-artikel wettig had aanbevolen kunnen worden.

(21) Indien respectievelijk bedoeld departementshoofd of de Kommissie bepaald heeft dat het wangedrag waaraan bedoelde beambte schuldig bevonden werd, van ernstige aard is, kan hij aanbevelen dat de Minister of administrateur—

- (a) bedoelde beambte waarschuwt of berispt; of
- (b) aan hem een boete van ten hoogste honderd pond oplegt, om in de paaiementen, die de Minister of administrateur mocht vaststellen, ingevorderd te worden door aftrek van de bezoldiging van de beambte; of
- (c) zijn bezoldiging of graad of beide zijn bezoldiging en graad tot een aanbevolen mate verlaagt; of
- (d) bedoelde beambte uit de staatsdienst ontslaat of gelast om daaruit af te treden vanaf een door de Minister of administrateur te bepalen dag,

en daarop kan de Minister of administrateur volgens de aanbeveling handelen of een andere weg inslaan die het departementshoofd of de Kommissie ingevolge dit sub-artikel wettig had kunnen aanbevelen, doch behoudens de bepalingen van sub-artikel (1) van artikel *vier* als de Kommissie de aanbeveling gedaan heeft.

(22) De Kommissie zendt aan de Minister of administrateur, met zijn aanbeveling ingevolge sub-artikel (20) of (21) de notulen van de verrichtingen bij het onderzoek en alle stukken in zijn bezit die op het onderzoek of op het appèl betrekking hebben.

(23) Indien een volgens sub-artikel (1) aangeklaagde beambte de aanklacht erkent wordt hij geacht schuldig te zijn aan het hem ten laste gelegde wangedrag.

(24) Indien hij in de algemene tak van dienst in een andere post dan een voorgeschreven post in dienst is, beslist het hoofd van het departement

determine whether, in his opinion, the misconduct in question is or is not of a serious nature and make a recommendation to the Minister or administrator in terms of sub-section (20) or (21), according to that determination.

(25) If the said officer is employed in the administrative, the clerical or the professional division or in a prescribed post in the general division the head of the department in which he is employed shall forward to the Commission all documents available to him which relate to the misconduct and any observations thereon which he may desire to offer, and the Commission shall determine whether in its opinion the misconduct in question is or is not of a serious nature and make a recommendation to the Minister or administrator in terms of sub-section (20) or (21), according to that determination.

(26) Upon a recommendation under sub-section (24) or (25) the Minister or administrator may act in accordance with the provisions of sub-section (20) or (21) as the case may be, as if the recommendation had been made under that sub-section.

(27) If an officer who is under suspension from duty under sub-section (4) is dealt with in accordance with the provisions of sub-section (20) or paragraph (a), (b) or (c) of sub-section (21) he shall be re-instated in the post which he held at the time of his suspension and paid his full emoluments for the period of his suspension: Provided that if his grade is reduced in terms of the said paragraph (c) he shall be re-instated in the public service in a post of the reduced grade and paid for the period of his suspension the emoluments of that post, but if emoluments in excess of the emoluments of that post were, during the period of his suspension, paid to him under sub-section (5), he shall not be obliged to refund the excess.

(28) If an officer who was called upon to resign from the public service, as hereinbefore provided, fails to so resign, he shall be deemed to have been discharged from the public service upon the date upon which he was called upon to resign."

Substitution of section 92 of Act 27 of 1923.

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

"Re-appointment of pensioners.

92. (1) No pensioner shall be employed in a full time capacity in the service of the Government, whether indefinitely or for any period, except on the recommendation of the Commission and with the approval of the Treasury.

(2) If any pensioner is so employed he shall be paid the salary and allowances usually paid in respect of the office or post in which he is employed, without regard to his pension.

(3) When the Government has in accordance with the provisions of sub-section (1) taken a pensioner into its employment, the Minister of the Interior shall, within a period of fourteen days as from the date of the commencement of the next session of Parliament which commenced after the date upon which the pensioner was so taken into employment, lay upon the Table of each House of Parliament a statement wherein is set forth—

- (a) the name and age of the pensioner;
- (b) the office or post which he held immediately before his retirement on pension;
- (c) the amount of his pension;
- (d) the office or 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."

Amendment of section 94 of Act 27 of 1923.

12. Section *ninety-four* of the principal Act is hereby amended—

(a) by the insertion in the first proviso, after the word "unfilled", of the words "by an officer of appropriate grade";

waarin hij in dienst is of het betrokken wangedrag naar zijn oordeel al dan niet van ernstige aard is en legt aan de Minister of administrateur naar gelang van die beslissing een aanbeveling volgens sub-artikel (20) of (21) voor.

(25) Indien bedoelde beambte in dienst is in de administratieve, klerkelike of vakkundige tak van dienst of in een voorgeshreven post in de algemene tak van dienst, zendt het hoofd van het departement waarin hij in dienst is, alle aan hem beschikbare stukken die op het wangedrag betrekking hebben en de toelichting daarvan die hij mocht wenselijk achten, aan de Kommissie, die beslist of het betrokken wangedrag naar zijn oordeel al dan niet van ernstige aard is en aan de Minister of administrateur naar gelang van die beslissing een aanbeveling volgens sub-artikel (20) of (21) voorlegt.

(26) Op een aanbeveling ingevolge sub-artikel (24) of (25) kan de Minister of administrateur handelen overeenkomstig de bepalingen respectievelijk van sub-artikel (20) of (21), alsof de aanbeveling ingevolge dat sub-artikel gedaan was.

(27) Indien met een beambte die ingevolge sub-artikel (4) onder schorsing in zijn dienst staat, gehandeld wordt overeenkomstig de bepalingen van sub-artikel (20) of van paragraaf (a), (b) of (c) van sub-artikel (21), wordt hij hersteld in de post die hij ten tijde van zijn schorsing bekleedde en ontvangt hij zijn bezoldiging ten volle over het tijdperk van zijn schorsing: Met dien verstande dat indien zijn graad volgens bedoelde paragraaf (c) verlaagd wordt, hij in de staatsdienst hersteld wordt in een post van de verlaagde graad en hij over het tijdperk van zijn schorsing de bezoldiging van die post ontvangt; doch indien gedurende het tijdperk van zijn schorsing een hogere bezoldiging dan de bezoldiging van die post ingevolge sub-artikel (5) aan hem betaald werd, is hij niet verplicht om het verschil terug te betalen.

(28) Indien een beambte die volgens voorgaande bepaling gelast is om uit de staatsdienst af te treden, in gebreke blijft om aldus af te treden, wordt hij geacht uit de staatsdienst ontslagen geworden te zijn op de dag waarop hij gelast werd om af te treden."

11. Artikel twee-en-negentig van die Hoofwet word hiermee herroep en deur die volgende artikel vervang:

„Weder-aanstelling van pensionarissen.

92. (1) Geen pensionaris wordt in volletijdse dienst van de Regering aangesteld, hetzij voor onbepaalde tijd of voor een bepaald tijdperk, dan op aanbeveling van de Kommissie en met goedkeuring van de Thesaurie.

(2) Indien een pensionaris aldus aangesteld wordt, ontvangt hij het salaris en de toelagen die gewoonlijk verbonden zijn aan de betrekking of post waarin hij aangesteld wordt, afgezien van zijn pensioen.

(3) Wanneer de Regering volgens de bepalingen van sub-artikel (1) een pensionaris in zijn dienst genomen heeft, legt de Minister van Binnenlandse Zaken binnen een termijn van veertien dagen vanaf de dag van het begin van de volgende Parlementsitting die begonnen is na de dag waarop de pensionaris aldus in dienst genomen werd, in ieder parlementshuis een verklaring ter Tafel waarin vermeld wordt—

- (a) de naam en ouderdom van de pensionaris;
- (b) het ambt of de post die hij onmiddellijk voor zijn aftreding op pensioen bekleedde;
- (c) het bedrag van zijn pensioen;
- (d) het ambt of de post waarin of de aard van het werk waarvoor hij aldus in dienst genomen werd;
- (e) de bezoldiging en andere voorwaarden waarop hij aldus in dienst genomen werd."

12. Artikel vier-en-negentig van die Hoofwet word hiermee gewysig—

- (a) deur die woorde „voor meer dan zes maanden onafgebroken vakant gebleven is" in die eerste voorbehoudsbepaling te vervang deur die woorde „meer dan zes maanden lang onafgebroken niet aangevuld werd door een beambte van de toepasselijke rang";

Vervanging van artikel 92 van Wet 27 van 1923.

Wysiging van artikel 94 van Wet 27 van 1923.

(b) by the insertion in the second proviso, after the word "act," of the words "in a post in the administrative or the clerical or the professional division or in a prescribed post in the general division,".

Amendment of section 101 of Act 27 of 1923.

13. Section *one hundred and one* of the principal Act is hereby amended by the deletion of the definition of the expression "the Treasury" and the substitution therefor of the following definition :

"Treasury" means the Minister of Finance or any officer in the Department of Finance authorized by the said Minister to perform the functions assigned to the Treasury in this Act.

Short title.

14. This Act shall be called the Public Service Amendment Act, 1936.

(b) deur die volgende woorde na die woord „treden” in die tweede voorbehoudsbepaling in te voeg: „in een post in de administratieve of in de klerkelike of in de vakkundige tak van dienst of in een voorgeschreven post in de algemene tak van dienst”.

13. Artikel *honderd-en-een* van die Hoofwet word hiermee gewysig deur die omskrywing van die uitdrukking „de Thesaurie” te skrap en te vervang deur die volgende omskrywing: „Thesaurie”, de Minister van Finansiën of een of andere ambtenaar in het Departement van Finansiën wien voormelde Minister gemachtigd heeft om de werkzaamheden te verrichten die in deze Wet aan de Thesaurie opgedragen worden.

Wysiging van artikel 101 van Wet 27 van 1923.

14. Hierdie Wet heet die Staatsdiens-Wysigingswet, 1936. Kort titel.

No. 38, 1936.]

ACT

To amend the Workmen's Compensation Act, 1934.

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

Definition.

1. In this Act the expression "principal Act" means the Workmen's Compensation Act, 1934 (Act No. 59 of 1934).

Amendment of section 8 of Act 59 of 1934.

2. (a) Section *eight* of the principal Act is hereby amended—
by the deletion in sub-section (1) of the words "or of a Provincial Administration or of the Railways and Harbours Administration or from a pension, superannuation or provident fund administered by any Department of State of the Union or by any such administration" and the substitution therefor of the words "(other than the Railway Administration) or of a provincial administration or from a pension, superannuation or provident fund administered by any Department of State of the Union (other than the Railway Administration) or by any provincial administration".

(b) This section shall be deemed to have come into operation on the first day of July, 1935.

Amendment of section 34 of Act 59 of 1934.

3. Section *thirty-four* of the principal Act is hereby amended by the deletion of the word "reward" in sub-section (1) and the substitution therefor of the word "award".

Amendment of section 46 of Act 59 of 1934.

4. Section *forty-six* of the principal Act is hereby amended by the insertion after the word "aforesaid" in paragraph (b) of the words "in respect of any payment which he was obliged to make as a result of the accident".

Amendment of section 48 of Act 59 of 1934.

5. Section *forty-eight* of the principal Act is hereby amended by the insertion after the word "age" in sub-section (5) of the words "or was employed under a written contract of apprenticeship".

Amendment of section 65 of Act 59 of 1934.

6. Section *sixty-five* of the Afrikaans version of the principal Act is hereby amended by the deletion of the word "nie" at the end of the section.

Amendment of section 68 of Act 59 of 1934.

7. Section *sixty-eight* of the principal Act is hereby amended by the addition at the end of sub-section (3) of the words—
"An employer who fails to comply with the requirements of this sub-section shall be guilty of an offence".

Amendment of section 74 of Act 59 of 1934.

8. Section *seventy-four* of the principal Act is hereby amended—

(i) by the insertion of "(a)" after "engaged" in the proviso to sub-section (1), all the words thereafter to the end of the proviso to form a paragraph "(a)", and by the insertion of the word "or" at the end of that paragraph;

(ii) by the insertion after the above paragraph "(a)" of the following new paragraph (b)—

"(b) in digging for or winning alluvial diamonds, alluvial gold or corundum, or in prospecting for alluvial diamonds, alluvial gold or base minerals in respect of workmen employed by him in connection with such digging, winning or prospecting: Provided that the employer does not use any explosives in connection with the work, and has advised his workmen by a notice exhibited at the place of work that he has not obtained and does not propose to obtain a policy of insurance or indemnity as is referred to in this sub-section."

Amendment of section 75 of Act 59 of 1934.

9. Section *seventy-five* of the principal Act is hereby amended by the insertion after the word "fees" in sub-section (1) of the words "authorize the Commissioner to".

No. 38, 1936.]

WET

Om die Werksmense Skadeloosstelling Wet, 1934 te wysig.

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

1. In hierdie Wet beteken die uitdrukking „Hoofwet” die Werksmense Skadeloosstelling Wet, 1934 (Wet No. 59 van 1934). Woordomskrywing.

2. (a) Artikel *agt* van die Hoofwet word hiermee gewysig— Wysiging van artikel 8 van Wet 59 van 1934.
deur die woorde in sub-artikel (1) „of van ’n provinsiale administrasie of van die Spoorweg- en Hawe-administrasie, of uit ’n pensioen-, superannuasie- of versorgingsfonds geadministreer deur ’n staatsdepartement van die Unie of deur so ’n administrasie” te skrap en te vervang deur die woorde „(behalwe die Spoorwegadministrasie) of van ’n provinsiale administrasie, of uit ’n pensioen-, superannuasie- of versorgingsfonds beheer deur ’n staatsdepartement van die Unie (behalwe die Spoorweg-administrasie) of deur ’n provinsiale administrasie”.

(b) Hierdie artikel word geag op die eerste dag van Julie 1935 in werking te getree het.

3. Artikel *vier-en-dertig* van die Hoofwet word hiermee gewysig deur die woord „reward” in sub-artikel (1) te skrap en te vervang deur „award”. Wysiging van artikel 34 van Wet 59 van 1934.

4. Artikel *ses-en-veertig* van die Hoofwet word hiermee gewysig deur in paragraaf (b) na die woorde „geregtig om” die woorde „ten opsigte van ’n betaling wat hy as gevolg van die ongeval moes doen” in te voeg. Wysiging van artikel 46 van Wet 59 of 1934.

5. Artikel *agt-en-veertig* van die Hoofwet word hiermee gewysig deur na die woorde „leeftyd was” in sub-artikel (5) die woorde „of kragtens ’n skriftelike leerlingskontrak in diens was” in te voeg. Wysiging van artikel 48 van Wet 59 van 1934.

6. Artikel *vyf-en-sestig* van die Hoofwet word hiermee gewysig deur die woord „nie” aan die end van die artikel te skrap. Wysiging van artikel 65 van Wet 59 van 1934.

7. Artikel *agt-en-sestig* van die Hoofwet word hiermee gewysig deur byvoeging aan die end van sub-artikel (3) van die woorde— Wysiging van artikel 68 van Wet 59 van 1934.

„’n Werkgewer wat versuim om aan die voorskrifte van hierdie sub-artikel te voldoen is skuldig aan ’n misdryf.”

8. Artikel *vier-en-sewentig* van die Hoofwet word hiermee gewysig— Wysiging van artikel 74 van Wet 59 van 1934.

(i) deur na „werkgewer” in die voorbehoudsbepaling op sub-artikel (1) in te voeg „(a)”, alle woorde daarna tot die end van die voorbehoudsbepaling ’n paragraaf „(a)” te vorm, en deur aan die end van daardie paragraaf „of” in te voeg;

(ii) deur na bogenoemde paragraaf „(a)” die volgende nuwe paragraaf (b) in te voeg—

„(b) wat na alluwiale diamante, alluwiale goud of korund graaf of dit wen, of wat na alluwiale diamante, alluwiale goud of onedele minerale prospekter ten opsigte van werksmense wat by hom in verband met sodanige graaf, wen of prospekter werksaam is: Met dien verstande dat die werkgewer geen ontploffingsmiddels in verband met die werk gebruik nie, en sy werksmense deur middel van ’n kennisgewing op die werkplek aangeplak verwittig het dat hy geen versekerings- of vrywaringspolis soos vermeld in hierdie sub-artikel verkry het of voornemens is te verkry.”

9. Artikel *vyf-en-sewentig* van die Hoofwet word hiermee gewysig deur die woorde „’n lisensie uitreik” te skrap en te vervang deur die woorde „die kommissaris magtig om ’n lisensie uit te reik”. Wysiging van artikel 75 van Wet 59 van 1934.

Insertion of new section 75bis in Act 59 of 1934.

10. The principal Act is hereby amended by the addition of the following new section—

Application of and return of securities. **75bis.** (1) Subject to the provisions of sub-section (4) any security deposited with the Treasury by an employer in terms of sub-section (2) of section *seventy-four*, shall be applied solely for the purpose of satisfying any payment which may be due by that employer under this Act and any costs lawfully incurred in enforcing such payment.

(2) Subject to the provisions of sub-section (4) any security deposited or provided or secured by an association, society or company in terms of sub-section (1) of section *seventy-five*, shall be applied solely for the purpose of satisfying any liability which that association, society or company may have incurred to indemnify an employer in respect of any payment for which he may be liable under this Act and any costs lawfully incurred in enforcing any such liability or payment.

(3) The Minister may by regulation prescribe the conditions upon which the manner in which and the period within which any security deposited as aforesaid shall be made available to any person entitled to payment from any such security.

(4) When the Minister is satisfied that any security or the balance of any security deposited as aforesaid is no longer required for the purpose of satisfying any liability hereinbefore mentioned and that the person who, or the association, society or company which deposited the security is no longer in a position to incur a liability payable from the said security, he shall cause the security or whatever balance thereof may be left over, to be returned to the person who is entitled to dispose thereof.

Amendment of section 81 of Act 59 of 1934.

11. Section *eighty-one* of the principal Act is hereby amended as follows—

- (a) by the deletion of the words "in writing" in sub-section (1); and
- (b) by the deletion in sub-section (2) of the words "of the written authority referred to in sub-section (1), such person" and the substitution therefor of the words "by any such officer or medical practitioner of a certificate signed by the Secretary for Labour and Social Welfare that the Minister has authorized him in terms of sub-section (1), he".

Amendment of section 84 of Act 59 of 1934.

12. Section *eighty-four* of the principal Act is hereby amended—

- (a) by the deletion of the word "and" in the definition of "agriculture" and by the substitution therefor of the word "or" and by the deletion of "or" in that definition;
- (b) by the insertion after the word "Labour" in the definition of "Minister" of the words "and Social Welfare".

Amendment of First Schedule to Act 59 of 1934.

13. The First Schedule to the principal Act is hereby amended as follows—

- (a) by the insertion after the words "Loss of hand at wrist = $42\frac{1}{2}$ " of the words "Loss of four fingers and thumb of one hand = $42\frac{1}{2}$ ";
- (b) by the deletion of the figures appearing against the following injuries and the substitution therefor of the figures shown—

| | |
|---|----|
| Loss of thumb—both phalanges | 35 |
| one phalanx | 10 |
| Loss of index finger—three phalanges | 10 |
| two phalanges | 8 |
| one phalanx | 4 |
| Loss of middle finger—three phalanges | 6 |
| two phalanges | 4 |
| one phalanx | 2 |
| Loss of ring finger—three phalanges | 5 |
| two phalanges | 4 |
| one phalanx | 2 |
| Loss of little finger—two phalanges | 3 |
| one phalanx | 2 |
| Loss of eye—sight of | 30 |

Short title

14. This Act shall be called the Workmen's Compensation Amendment Act, 1936.

10. Die Hoofwet word hiermee gewysig deur die volgende nuwe artikel by te voeg—
 Invoeging van nuwe artikel 75bis in Wet 59 van 1934.

Aanwending 5 terug-gawe van sekuriteite.

(1) Behoudens die bepalings van sub-artikel (4) word enige sekuriteit wat ingevolge sub-artikel (2) van artikel vier-en-sewentig by die Tesourie gedeponeer is, uitsluitend aangewend tot voldoening van enige betaling wat deur daardie werkgewer kragtens hierdie Wet verskuldig mag wees en van enige koste wettig gemaak by invordering van so 'n betaling.

(2) Behoudens die bepalings van sub-artikel (4) word enige sekuriteit wat ingevolge sub-artikel (1) van artikel vyf-en-sewentig deur 'n vereniging, genootskap of maatskappy gedeponeer of verstrek of verkry is, uitsluitend aangewend tot voldoening van enige aanspreeklikheid wat daardie vereniging, genootskap of maatskappy aangegaan mag het om 'n werkgewer te vrywaar ten opsigte van enige betaling waarvoor hy kragtens hierdie Wet aanspreeklik is en van enige koste wettig gemaak by invordering van enige sodanige aanspreeklikheid of betaling.

(3) Die Minister kan by regulasie voorskryf op watter voorwaardes, op watter wyse en binne watter tydperk enige sekuriteit op voormelde wyse gedeponeer aan enige persoon wat op betaling uit so 'n sekuriteit geregtig is beskikbaar gestel moet word.

(4) Wanneer die Minister oortuig is dat enige sekuriteit of die balans van enige sekuriteit op voormelde wyse gedeponeer nie langer benodig is om aan 'n hierin voormelde aanspreeklikheid te voldoen nie, of dat die persoon, vereniging, genootskap of maatskappy wat die sekuriteit gedeponeer het nie langer in die posisie is om 'n aanspreeklikheid uit bedoelde sekuriteit betaalbaar aan te gaan nie, laat hy die sekuriteit of watter oorskot daarvan nog bestaan aan die persoon wat geregtig is om daarvoor te beskik terugbesorg.

11. Artikel een-en-tagtig van die Hoofwet word hiermee gewysig—
 Wysiging van artikel 81 van Wet 59 van 1934.

(a) deur die woord „skriftelik” in sub-artikel (1) te skrap; en

(b) deur die woorde „van die skriftelike magtiging vermeld in sub-artikel (1); kan sodanige persoon” in sub-artikel (2) te skrap en te vervang deur die woorde „deur enige sodanige persoon of geneesheer van 'n sertifikaat onderteken deur die Sekretaris van Arbeid en Volkswelsyn dat die Minister hom die in sub-artikel (1) bedoelde magtiging verleen het, kan hy”.

12. Artikel vier-en-tagtig van die Hoofwet word hiermee gewysig—
 Wysiging van artikel 84 van Wet 59 van 1934.

(a) deur die omskrywing van „landbou” te skrap en te vervang deur die volgende nuwe omskrywing—
 „landbou” beteken tuinbou, bosbou of enige diens op 'n plaas in verband met boerdery.

(b) deur na die woord „Arbeid” in die omskrywing van „Minister” die woorde „en Volkswelsyn” in te voeg.

13. Die Eerste Bylae van die Hoofwet word hiermee gewysig—
 Wysiging van Eerste Bylae van Wet 59 van 1934.

(a) deur na die woorde „Verlies van hand by die pols = 42½” die woorde „Verlies van vier vingers en duim van een hand = 42½” in te voeg;

(b) deur die syfers teenoor die volgende beserings geplaas te skrap en te vervang deur die onderstaande syfers—

| | | | | |
|-------------------------------------|----|----|----|----|
| Verlies van duim—albei litte | .. | .. | .. | 35 |
| een lit | .. | .. | .. | 10 |
| Verlies van voorvinger—drie litte | .. | .. | .. | 10 |
| twee litte | .. | .. | .. | 8 |
| een lit | .. | .. | .. | 4 |
| Verlies van middelvinger—drie litte | .. | .. | .. | 6 |
| twee litte | .. | .. | .. | 4 |
| een lit | .. | .. | .. | 2 |
| Verlies van ringvinger—drie litte | .. | .. | .. | 5 |
| twee litte | .. | .. | .. | 4 |
| een lit | .. | .. | .. | 2 |
| Verlies van pinkie—twee litte | .. | .. | .. | 3 |
| een lit | .. | .. | .. | 2 |
| Verlies van oog—sienvermoë | .. | .. | .. | 30 |

14. Hierdie Wet heet die Werksmense Skadeloosstelling Kort titel. Wysigingswet, 1936.

PROCLAMATION

BY LIEUTENANT-COLONEL HIS EXCELLENCY THE RIGHT HONOURABLE THE EARL OF CLARENDON, A MEMBER OF HIS MAJESTY'S MOST HONOURABLE PRIVY COUNCIL, KNIGHT GRAND CROSS OF THE MOST DISTINGUISHED ORDER OF SAINT MICHAEL AND SAINT GEORGE, GOVERNOR-GENERAL AND COMMANDER-IN-CHIEF IN AND OVER THE UNION OF SOUTH AFRICA.

No. 153, 1936.]

Whereas by sub-section (2) of section *twelve* of the Customs Tariff and Excise Duties Amendment Act, 1925 (Act No. 36 of 1925), as amended, the Governor-General may by a further proclamation in the *Gazette* repeal or from time to time amend any proclamation issued under sub-section (1) of section *twelve* of the aforesaid Act, as amended;

And whereas I did by Proclamation No. 91 of the 7th May, 1935, allow a rebate of the whole duty otherwise payable on tractors, motor spirit and lubricating oil imported or taken out of bond by any Divisional Council in the Province of the Cape of Good Hope, subject to the regulations set out therein;

Now, therefore, under and by virtue of the powers vested in me as aforesaid, I do hereby declare, proclaim and make known that Proclamation No. 91 of the 7th May, 1935, is hereby amended by inserting after the words "motor spirits" wherever they occur therein the words "fuel oil".

GOD SAVE THE KING.

Given under my Hand and the Great Seal of the Union of South Africa at Cape Town this Twenty-third day of June, One thousand Nine hundred and Thirty-six.

CLARENDON,
Governor-General.

By Command of His Excellency the
Governor-General-in-Council.
N. C. HAVENGA.

PROCLAMATION

BY LIEUTENANT-COLONEL HIS EXCELLENCY THE RIGHT HONOURABLE THE EARL OF CLARENDON, A MEMBER OF HIS MAJESTY'S MOST HONOURABLE PRIVY COUNCIL, KNIGHT GRAND CROSS OF THE MOST DISTINGUISHED ORDER OF SAINT MICHAEL AND SAINT GEORGE, GOVERNOR-GENERAL AND COMMANDER-IN-CHIEF IN AND OVER THE UNION OF SOUTH AFRICA.

No. 154, 1936.]

Whereas by sub-section (2) of section *twelve* of the Customs Tariff and Excise Duties Amendment Act, 1925 (Act No. 36 of 1925), as amended, the Governor-General may by a further proclamation in the *Gazette* repeal or from time to time amend any proclamation issued under sub-section (1) of section *twelve* of the aforesaid Act, as amended;

And whereas I did by sub-paragraph (b) of Proclamation No. 188 of 1934, as amended by Proclamation No. 20 of 1935, allow a rebate of 15 per cent. *ad valorem* on motor-bus chassis and 17 per cent. *ad valorem* on electric trolley-bus undercarriages;

Now, therefore, under and by virtue of the powers vested in me as aforesaid, I do hereby declare, proclaim and make known that Proclamation No. 188 of 1934, as amended by Proclamation No. 20 of 1935, is hereby further amended by the substitution of the aforesaid sub-paragraph (b) by the following new sub-paragraph—

"(b) A rebate of the whole duty on motor-bus chassis and on the undercarriage (including in each case one tyre and tube per wheel) and driving and trolley equipment of electric railless cars or trolley-buses, for the building of bus bodies in the Union with or without metal skeleton frameworks imported in terms of paragraph (a)."

GOD SAVE THE KING.

Given under my Hand and the Great Seal of the Union of South Africa at Cape Town this Twenty-third day of June, One thousand Nine hundred and Thirty-six.

CLARENDON,
Governor-General.

By Command of His Excellency the
Governor-General-in-Council.
N. C. HAVENGA.

PROKLAMASIE

VAN LUITENANT-KOLONEL SY EKSELLENSIE DIE HOOGDELAGBARE DIE GRAAF VAN CLARENDON, LID VAN DIE MEES EERVOLLE GEHEIME RAAD VAN SY MAJESTEIT, GROOTKRUISRIDDER VAN DIE MEES ONDERSKEIE ORDE VAN SINT MICHIËL EN SINT GEORGE, GOEWERNEUR-GENERAAL EN OPPERBEVELHEBBER IN EN OOR DIE UNIE VAN SUID-AFRIKA.

No. 153, 1936.]

Nademaal by sub-artikel (2) van artikel *twaalf* van die „Doeanetarief en Aksijnsrechten Wijzigingswet, 1925" (Wet No. 36 van 1925), soos gewysig, die Goewerneur-generaal by 'n verdere proklamasie in die *Staatskoerant* enige proklamasie uitgevaardig onder sub-artikel (1) van artikel *twaalf* van voornoemde Wet, soos gewysig, kan herroep of van tyd tot tyd kan wysig;

En nademaal ek by Proklamasie No. 91 van 7de Mei 1935, 'n korting van die gehele doeanereg andersins betaalbaar op trekkers, motorbrandstof en smeerolie ingevoer of uit entrepôt uitgeklaar deur enige Afdelingsraad in die Provinsie Kaap die Goeie Hoop, met inagneming van die regulasies daarin uiteengesit, toegestaan het;

So is dit dat ek, kragtens die bevoegdheid my verleen soos voormeld, hierby verklaar, proklameer en bekendmaak dat Proklamasie No. 91 van 7de Mei 1935, hierby gewysig word deur na die woord „motorbrandstof" orals waar dit daarin voorkom die woord „brandolie" in te voeg.

GOD BEHOEDE DIE KONING.

Gegee onder my Hand en die Grootseël van die Unie van Suid-Afrika te Kaapstad, op hede die Drie-en-twintigste dag van Junie Eenduisend Neghonderd Ses-en-dertig.

CLARENDON,
Goewerneur-generaal.

Op las van Sy Eksellensie die
Goewerneur-generaal-in-Rade.
N. C. HAVENGA.

PROKLAMASIE

VAN LUITENANT-KOLONEL SY EKSELLENSIE DIE HOOGDELAGBARE DIE GRAAF VAN CLARENDON, LID VAN DIE MEES EERVOLLE GEHEIME RAAD VAN SY MAJESTEIT, GROOTKRUISRIDDER VAN DIE MEES ONDERSKEIE ORDE VAN SINT MICHIËL EN SINT GEORGE, GOEWERNEUR-GENERAAL EN OPPERBEVELHEBBER IN EN OOR DIE UNIE VAN SUID-AFRIKA.

No. 154, 1936.]

Nademaal by sub-artikel (2) van artikel *twaalf* van die „Doeanetarief en Aksijnsrechten Wijzigingswet, 1925" (Wet No. 36 van 1925), soos gewysig, die Goewerneur-generaal by 'n verdere proklamasie in die *Staatskoerant* enige proklamasie uitgevaardig onder sub-artikel (1) van artikel *twaalf* van voornoemde Wet, soos gewysig, kan herroep of van tyd tot tyd kan wysig;

En nademaal ek by sub-paragraaf (b) van Proklamasie No. 188 van 1934, soos gewysig deur Proklamasie No. 20 van 1935, 'n korting van 15 persent *ad valorem* op motorbuschassis en 17 persent *ad valorem* op elektriese trolleibus-onderstelle, toegestaan het;

So is dit dat ek, kragtens die bevoegdheid my verleen soos voormeld, hierby verklaar, proklameer en bekendmaak dat Proklamasie No. 188 van 1934, soos gewysig by Proklamasie No. 20 van 1935, hierby verder wysig deur die voormelde sub-paragraaf (b) deur die volgende nuwe sub-paragraaf te vervang:—

„(b) 'n Korting van die gehele reg op motorbuschassis en op die onderstelle (met inbegrip, in ieder geval, van een binne- en buiteband per wiel) en die dryf- en kontaktoestel van elektriese spoorlose-waens of trolleibusse, vir die bou van busbakke in die Unie met of sonder metaal raamwerk in terme van paragraaf (a) ingevoer."

GOD BEHOEDE DIE KONING.

Gegee onder my Hand en die Grootseël van die Unie van Suid-Afrika te Kaapstad, op hede die Drie-en-twintigste dag van Junie Eenduisend Neghonderd Ses-en-dertig.

CLARENDON,
Goewerneur-generaal.

Op las van Sy Eksellensie die
Goewerneur-generaal-in-Rade.
N. C. HAVENGA.

PROCLAMATION

BY LIEUTENANT-COLONEL HIS EXCELLENCY THE RIGHT HONOURABLE THE EARL OF CLARENDON, A MEMBER OF HIS MAJESTY'S MOST HONOURABLE PRIVY COUNCIL, KNIGHT GRAND CROSS OF THE MOST DISTINGUISHED ORDER OF SAINT MICHAEL AND SAINT GEORGE, GOVERNOR-GENERAL AND COMMANDER-IN-CHIEF IN AND OVER THE UNION OF SOUTH AFRICA.

No. 155, 1936.]

Whereas by sub-section (2) of section twelve of the Customs Tariff and Excise Duties Amendment Act, 1925 (Act No. 36 of 1925), as amended, the Governor-General may by a further proclamation in the *Gazette* repeal or from time to time amend any proclamation issued under sub-section (1) of section twelve under Chapter II of the aforesaid Act, as amended;

And whereas I did by Proclamations Nos. 164, 165, 170 and 171 of 1926, No. 204 of 1930, Nos. 149 and 200 of 1932 impose a dumping duty on rubber heels and soles imported from the various countries mentioned therein, and under Proclamation No. 226 of 1935 allowed a rebate of the customs duty on metal eyelets, parts and edging for use in the printing industry;

And whereas it has been made to appear to me that the necessity for the exercise of the aforesaid power no longer exists;

Now, therefore, under and by virtue of the powers vested in me as aforesaid, I do hereby declare, proclaim and make known that from and after the date of publication of this my Proclamation in the *Gazette* the provisions of the aforesaid Proclamations shall cease to have force and effect, save in so far that any goods in which the duty has been rebated under Proclamation No. 226 of 1935 shall remain subject to the regulations set forth therein as if the said Proclamation had remained in force and effect.

GOD SAVE THE KING.

Given under my Hand and the Great Seal of the Union of South Africa at Cape Town this Twenty-third day of June, one thousand Nine hundred and Thirty-six.

CLARENDON,
Governor-General.

By Command of His Excellency the
Governor-General-in-Council.

N. C. HAVENGA.

PROCLAMATION

BY LIEUTENANT-COLONEL HIS EXCELLENCY THE RIGHT HONOURABLE THE EARL OF CLARENDON, A MEMBER OF HIS MAJESTY'S MOST HONOURABLE PRIVY COUNCIL, KNIGHT GRAND CROSS OF THE MOST DISTINGUISHED ORDER OF SAINT MICHAEL AND SAINT GEORGE, GOVERNOR-GENERAL AND COMMANDER-IN-CHIEF IN AND OVER THE UNION OF SOUTH AFRICA.

No. 156, 1936.]

Whereas by section twelve of the Customs Tariff and Excise Duties Amendment Act, 1925 (Act No. 36 of 1925), as amended, the Governor-General may by proclamation in the *Gazette* declare that, subject to regulations set out in such proclamation—

there shall be allowed a rebate of the whole or any part of the duty otherwise payable on tractors, motor spirit, fuel oil and lubricating oil imported for or taken out of bond by the United Transkeian Territories General Council in the Province of the Cape of Good Hope, for use in road construction and maintenance.

Now, therefore, under and by virtue of the powers vested in me as aforesaid, I do hereby declare, proclaim and make known that from and after the publication of this my proclamation in the *Gazette*, there shall be allowed a rebate of the duty as set forth hereunder, subject to the following regulations:—

- (1) A rebate of the whole duty shall be allowed on tractors, motor spirit, fuel oil and lubricating oil imported or taken out of bond by the United Transkeian Territories General Council in the Province of the Cape of Good Hope for use in road construction or maintenance, provided that the relative customs bill of entry bears a certificate signed by the secretary of the Council and countersigned by the chairman thereof that tractors, motor spirit, fuel oil and lubricating oil will be used solely on road construction or maintenance by the said Council; and on a written undertaking to the effect that if any such tractors, motor spirit, fuel oil and lubricating oil are used for any other purpose or sold or otherwise disposed of by the said Council, the Commissioner of Customs will be advised in writing of such sale or disposal and that the customs duty at the rate leviable at the date of sale or disposal will immediately be paid to him by such Council;
- (2) the secretary or the accounting officer of the said Council shall keep a stock book showing separately the quantities of motor spirit, fuel oil and lubricating oil received under

PROKLAMASIE

VAN LUITENANT-KOLONEL SY EKSELLENSIE DIE HOOGEDLAGBARE DIE GRAAF VAN CLARENDON, LID VAN DIE MEES EERVOLLE GEHEIME RAAD VAN SY MAJESTEIT, GROOTKRUISRIDDER VAN DIE MEES ONDESKIE ORDE VAN SINT MICHEL EN SINT GEORGE, GOEWERNEUR-GENERAAL EN OPPERBEVELHEBBER IN EN OOR DIE UNIE VAN SUID-AFRIKA.

No. 155, 1936.]

Nademaal by sub-artikel (2) van artikel twaalf van die „Doeanetarief en Aksijsrechten Wijzigingswet, 1925” (Wet No. 36 van 1925), soos gewysig, die Goewerneur-generaal by 'n verdere proklamasie in die *Staatskoerant* enige proklamasie uitgevaardig onder sub-artikel (1) van artikel twaalf of onder Hoofstuk II van voornoemde Wet, soos gewysig, kan herroep of van tyd tot tyd kan wysig;

En nademaal ek by Proklamasies Nos. 164, 165, 170 en 171 van 1926, No. 204 van 1930, Nos. 149 en 200 van 1932, 'n dumpingreg op rubberhakke en -sole ingevoer van die verskillende lande daarin genoem, opgelê het, en by Proklamasie No. 226 van 1935, 'n korting van die doeanereg op metal-oogies, -dele en -montering vir die drukwerkersnywerheid, toegestaan het;

En nademaal dit tot my kennis gebring is dat die noodsaaklikheid vir die uitoefening van die voormelde mag nie meer bestaan nie;

So is dit dat ek, kragtens die bevoegdheid my verleen soos voormeld, hierby verklaar, proklameer en bekendmaak dat vanaf en na die datum van publikasie van hierdie Proklamasie in die *Staatskoerant* die bepaling van voornoemde Proklamasies nie meer van krag sal wees nie, behoudens vir sover dat enige goedere waarop 'n korting van die doeanereg onder Proklamasie No. 226 van 1935 toegestaan is, bly dit onderworpe aan die regulasies daarin uiteengesit asof die genoemde Proklamasie nog van krag was.

GOD BEHOEDE DIE KONING.

Gegee onder my Hand en die Grootseël van die Unie van Suid-Afrika te Kaapstad, op hede die Drie-en-twintigste dag van Junie Eenduisend Negehoonderd Ses-en-dertig.

CLARENDON,
Goewerneur-generaal.

Op las van Sy Eksellensie die
Goewerneur-generaal-in-Rade.

N. C. HAVENGA.

PROKLAMASIE

VAN LUITENANT-KOLONEL SY EKSELLENSIE DIE HOOGEDLAGBARE DIE GRAAF VAN CLARENDON, LID VAN DIE MEES EERVOLLE GEHEIME RAAD VAN SY MAJESTEIT, GROOTKRUISRIDDER VAN DIE MEES ONDESKIE ORDE VAN SINT MICHEL EN SINT GEORGE, GOEWERNEUR-GENERAAL EN OPPERBEVELHEBBER IN EN OOR DIE UNIE VAN SUID-AFRIKA.

No. 156, 1936.]

Nademaal by artikel twaalf van die „Doeanetarief en Aksijsrechten Wijzigingswet, 1925” (Wet No. 36 van 1925), soos gewysig, die Goewerneur-generaal by proklamasie in die *Staatskoerant* kan verklaar dat, met inagneming van regulasies uiteengesit in sodanige proklamasie—

daar 'n korting van die hele of enige gedeelte van die doeanereg wat andersins hefbaar is toegestaan sal word op trekkers, motorbrandstof, brandolie en smeerolie, ingevoer of uit entrepôt ingeklaar deur die Verenigde Transkeigebiede Algemene Raad in die Provinsie Kaap die Goeie Hoop, vir gebruik by die aanlê en instandhou van weë.

So is dit dat ek, kragtens die bevoegdheid my verleen soos voormeld, hierby verklaar, proklameer en bekendmaak, dat vanaf en na die datum van die publikasie van hierdie Proklamasie in die *Staatskoerant* sal 'n korting van die doeanereg soos hieronder uiteengesit, met inagneming van die volgende regulasies, toegestaan word:—

- (1) 'n Korting van die hele doeanereg sal op trekkers, motorbrandstof, brandolie en smeerolie, ingevoer of uit entrepôt uitgeklaar deur die Verenigde Transkeigebiede Algemene Raad in die Provinsie Kaap die Goeie Hoop vir die aanlê of instandhou van weë toegestaan word, mits dat die betreklike doeanetariefsbrief 'n sertifikaat bevat geteken deur die sekretaris van die Raad en mede-onderteken deur die voorsitter daarvan dat die trekkers, motorbrandstof, brandolie en smeerolie uitsluitend deur die genoemde Raad gebruik sal word vir die aanlê en instandhou van weë; en op 'n skriftelike onderneming behelsende dat indien enige sodanige trekkers, motorbrandstof, brandolie en smeerolie vir enige ander doel gebruik of van die hand gesit word deur die genoemde Raad, moet die Kommissaris van Doeanes skriftelik van sodanige verkoop of van die hand sit berig word, en dat die doeanereg hefbaar op die datum van verkoping of van die hand sittings onmiddellik aan hom deur sodanige Raad betaal word;
- (2) die sekretaris of die rekenpligtige amptenaar van die genoemde Raad moet 'n voorraadboek hou waarin afsonderlik aangegee word die hoeveelhede motorbrandstof, brandolie en smeerolie onder korting van doeanereg ontvang en die hoe-

rebate of the duty and the quantities thereof issued for road construction or maintenance, which book shall be open for inspection to an officer of customs at any time;

- (3) the secretary or the accounting officer shall render at the end of each financial year to the Commissioner of Customs a return showing the quantities of motor spirit, fuel oil and lubricating oil in stock at the beginning of the year, the total quantities received and issued during the year and the balances on hand, together with a certificate that the quantities issued have been paid for out of the Council's funds.

Any person who fails to comply with the provisions of this Proclamation, shall in terms of section *one hundred and sixteen* of the Customs Management Act, 1913, be liable to a fine not exceeding three hundred pounds and to the forfeiture of the goods.

GOD SAVE THE KING.

Given under my Hand and the Great Seal of the Union of South Africa at Cape Town this Twenty-third day of June, One thousand Nine hundred and Thirty-six.

CLARENDON,
Governor-General.

By Command of His Excellency the
Governor-General-in-Council.

N. C. HAVENGA.

PROCLAMATION

BY LIEUTENANT-COLONEL HIS EXCELLENCY THE RIGHT HONOURABLE THE EARL OF CLARENDON, A MEMBER OF HIS MAJESTY'S MOST HONOURABLE PRIVY COUNCIL, KNIGHT GRAND CROSS OF THE MOST DISTINGUISHED ORDER OF SAINT MICHAEL AND SAINT GEORGE, GOVERNOR-GENERAL AND COMMANDER-IN-CHIEF IN AND OVER THE UNION OF SOUTH AFRICA.

No. 157, 1936.]

ESTABLISHMENT OF A BODY TO BE KNOWN AS THE SOUTH AFRICAN BROADCASTING CORPORATION.

Under and by virtue of the powers in me vested by section *one* of the Broadcasting Act, 1936, I do hereby fix the First day of August, 1936, as the date on which a body to be known as the South African Broadcasting Corporation shall be established.

GOD SAVE THE KING.

Given under my Hand and the Great Seal of the Union of South Africa at Cape Town this Twenty-second day of June, One thousand Nine hundred and Thirty-six.

CLARENDON,
Governor-General.

By Command of His Excellency the
Governor-General-in-Council.

CHAS. F. CLARKSON.

veelheid daarvan vir die aanlê of instandhou van weë, uit gereik is, welk boek te eniger tyd ter insae sal wees van 'n doeanebeampte;

- (3) die sekretaris of die rekenpligtige amptenaar moet op die einde van elke finansiële jaar aan die Kommissaris van Doeane 'n opgaaf verstrek tonende die hoeveelheid motorbrandstof, brandolie en smeerolie wat in die begin van die jaar in voorraad was, die hoeveelheid ontvang en uitgereik gedurende die jaar en die balans wat in voorraad is, tesame met 'n sertifikaat dat die hoeveelheid wat uitgereik is uit die fonds van die Raad betaal is.

Iedereen wat versuim of in gebreke bly om die bepalinge van hierdie Proklamasie na te kom, is kragtens artikel *honderd-en-sestien* van die „Wet op het Beheer van de Doeane, 1913” strafbaar met 'n boete van hoogstens driehonderd pond en verbeurdverklaring van die goedere.

GOD BEHOEDE DIE KONING.

Gegee onder my Hand en die Grootseël van die Unie van Suid-Afrika te Kaapstad, op hede die Drie-en-twintigste dag van Junie Eenduisend Negehoenderd Ses-en-dertig.

CLARENDON,
Goewerneur-generaal.

Op las van Sy Eksellensie die
Goewerneur-generaal-in-Rade.

N. C. HAVENGA.

PROKLAMASIE

VAN LUITENANT-KOLONEL SY EKSELLENSIE DIE HOOGEDLAGBARI DIE GRAAF VAN CLARENDON, LID VAN DIE MEES EERVOLLE GEHEIME RAAD VAN SY MAJESTEIT, GROOTKRUISRIDDER VAN DIE MEES ONDERSKEIE ORDE VAN SINT MICHEL EN SINT GEORGE, GOEWERNEUR-GENERAAL EN OPPERBEVELHEBBER IN EN OOR DIE UNIE VAN SUID-AFRIKA.

No. 157, 1936.]

INSTELLING VAN 'N LIGGAAM MET DIE NAAM VAN DIE SUID-AFRIKAANSE UITSAAIKORPORASIE.

Ingevolge en kragtens die bevoegdhede my verleen deur artikel *een* van die Uitsaai Wet, 1936, bepaal ek hierby die Eerste dag van Augustus 1936, as die datum waarop 'n liggaam met die naam van die Suid-Afrikaanse Uitsaai-korporasie ingestel sal word.

GOD BEHOEDE DIE KONING.

Gegee onder my Hand en die Grootseël van die Unie van Suid-Afrika te Kaapstad op hede die Twee-en-twintigste dag van Junie Eenduisend Negehoenderd Ses-en-dertig.

CLARENDON,
Goewerneur-generaal.

Op las van Sy Eksellensie die
Goewerneur-generaal-in-Rade.

CHAS. F. CLARKSON.