

OFFICIAL GAZETTE

EXTRAORDINARY OF SOUTH WEST AFRICA.



BUITENGEWONE OFFISIËLE KOERANT

UITGAWE OP GESAG.

VAN SUIDWES-AFRIKA.

PUBLISHED BY AUTHORITY.

1/- Friday, 5th December, 1952. WINDHOEK Vrydag, 5 Desember 1952. No. 1732.

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Goewermentskennisgewing.

Government Notice.

The following Government Notice is published for general information.

Die volgende Goewermentskennisgewing word vir algemene inligting gepubliseer.

J. NESER, Secretary for South West Africa.

J. NESER, Sekretaris van Suidwes-Afrika.

Administrator's Office, Windhoek.

Kantoor van die Administrateur, Windhoek.

No. 373.] [5th December, 1952.

No. 373.] [5 Desember 1952.

ORDINANCES, 1952: PROMULGATION OF.

ORDONNANSIES, 1952: UITVAARDIGING VAN.

The Administrator has been pleased to assent, in terms of section thirty-two of the South-West Africa Constitution Act, 1925 (Act No. 42 of 1925), to the following Ordinances which are hereby published for general information in terms of section thirty-four of the said Act:—

Dit het die Administrateur behaag om sy goedkeuring te heg, ooreenkomstig artikel twee-en-dertig van „De Zuidwest-Afrika Konstitusie Wet 1925” (Wet 42 van 1925), aan die volgende Ordonnansies wat hiermee vir algemene inligting gepubliseer word, ooreenkomstig artikel vier-en-dertig van gemelde Wet:—

Table with 2 columns: Title, Page. Includes items like 'Additional Appropriation (1952/53) Ordinance, 1952', 'Finance and Audit Further Amendment Ordinance, 1952', etc.

Table with 2 columns: Titel, Bladsy. Includes items like 'Addisionele Middele (1952/53) Ordonnansie 1952', 'Verdere Wysigingsordonnansie op Finansie en Ouditring 1952', etc.

No. 41 of 1952.]

ORDINANCE

To apply a further sum not exceeding nine hundred and seventy-five thousand, one hundred and ten pounds towards the service of the Territory of South West Africa for the financial year ending on the thirty-first day of March, 1953.

(Assented to 8th November, 1952.)
(Afrikaans tekst signed by the Administrator.)

BE IT ORDAINED by the Legislative Assembly for the Territory of South West Africa as follows:—

1. The Administration Account of the Territory of South West Africa is hereby charged with the sum of nine hundred and seventy-five thousand, one hundred and ten pounds on Revenue Account to meet certain expenditure over and above the amounts appropriated for the service of the financial year ending on the 31st March, 1953, as specified in Ordinance 15 of 1952.

2. The money appropriated by this Ordinance shall be applied to the services detailed in the Schedule hereto and more particularly specified in the Estimates of Additional Expenditure (S.W.A. 6—1952) as approved by the Legislative Assembly.

3. This Ordinance shall be called the Additional Appropriation 1952/53 Ordinance, 1952.

SCHEDULE.

Vote No.	Designation of vote.	Amount.
On Revenue Account.		
6.	Miscellaneous Services	221,610
8.	Works	2,000
13.	Pensions and Gratuities	1,500
14.	Posts, Telegraphs and Telephones	90,000
19.	Appropriation from Revenue Fund to other funds	660,000
	Total	£975,110

No. 41 van 1952.]

ORDONNANSIE

Tot aanwending van 'n verdere geldbedrag van hoogstens negehoenderd vyf-en-sewentigduisend eenhonderd-en-tien pond vir die diens van die Gebied Suidwes-Afrika vir die boekjaar wat op die een-en-dertigste dag van Maart 1953 eindig.

(Goedgekeur 8 November 1952.)
(Afrikaanse teks deur die Administrateur geteken.)

Die Wetgewende Vergadering van die Gebied Suidwes-Afrika VERORDEN:—

1. Die Administrasierekening van die Gebied Suidwes-Afrika word hiermee belas met die bedrag van negehoenderd vyf-en-sewentigduisend eenhonderd-en-tien pond op die Inkomsterekening tot dekking van sekere uitgawes bo en behalwe die bedrag beskikbaar gestel vir die diens van die boekjaar wat op 31 Maart 1953 eindig, soos in Ordonnansie 15 van 1952 vermeld is.

2. Die geld wat deur hierdie Ordonnansie beskikbaar gestel word, moet aangewend word vir die dienste in besonderhede vermeld in die Bylae tot hierdie Ordonnansie en omstandiger uiteengesit in die Begroting van Bykomende Uitgawe wat gedek moet word uit Inkomstefondse (S.W.A. 6—1952) soos deur die Wetgewende Vergadering goedgekeur.

3. Hierdie Ordonnansie heet die Addisionele Middele (1952/53) Ordonnansie 1952.

BYLAE.

No. van Begrotingspos.	Benaming van Begrotingspos.	Bedrag.
Op Inkomsterekening.		
6.	Diverse Dienste	221,610
8.	Werke	2,000
13.	Pensioene en Gratifikasies	1,500
14.	Pos-, Telegraaf- en Telefoonwese	90,000
19.	Aanwending uit Inkomstefonds na ander fondse	660,000
	Totaal	£975,110

No. 42 of 1952.]

ORDINANCE

To amend the law relating to the regulation of the receipt, custody and issue of Public Money.

(Assented to 8th November, 1952.)
(English text signed by the Administrator.)

BE IT ORDAINED by the Legislative Assembly for the Territory of South West Africa as follows:—

1. The following new section is hereby inserted after section *twenty-four* of the Finance and Audit Ordinance, 1926 (Ordinance 1 of 1926):—

"Rewards to informers in respect of precious metals and precious stones.

24 bis. (1) Notwithstanding anything in any law, any person (other than a person in the service of the Administration or of the Government of the Union of South Africa) upon whose information, any precious stone or precious metal or any money paid in respect of the illicit purchase of any precious stone or precious metal is seized under any law, may, at the discretion and under the written authority of the Commissioner of the South African Police be paid out of the revenues accruing to the Administration from the sale of such precious stone or metal or from the seizure of such money, a monetary reward not exceeding one third of the amount realized by such sale or of such money seized, as the case may be.

(2) Every such payment shall be made by the Accounting Officer of the Administration by way of refund from the revenue in question as paid into the Administration Account in terms of sub-section (3) of section *eleven*, as substituted by section 1 of Ordinance 8 of 1928."

2. This Ordinance shall be called the Finance and Audit Further Amendment Ordinance, 1952.

No. 43 van 1952.]

ORDINANCE

To amend the law relating to public education.

(Assented to 8th November, 1952.)
(Afrikaans text signed by the Administrator.)

BE IT ORDAINED by the Legislative Assembly for the Territory of South West Africa as follows:—

1. Section *eighty-five* of the Education Proclamation, 1926 (Proclamation 16 of 1926), is hereby amended by the addition of the following proviso at the end thereof:—

"Provided that in the case of private schools, the Director may authorise a departure from the provision determining that there shall be four school terms during every calendar year."

2. This Ordinance shall be called the Education Further Amendment Ordinance, 1952.

No. 42 van 1952.]

ORDONNANSIE

Ter wysiging van die wet tot reëling van die ontvangs, bewaring en uitgifte van Staatsgeld.

(Goedgekeur 8 November 1952.)
(Engelse teks deur die Administrateur geteken.)

Die Wetgewende Vergadering van die Gebied Suidwes-Afrika VERORDEN:—

1. Die onderstaande nuwe artikel word hierby ingevoeg na artikel *vier-en-twintig* van die „Finansie en Ouditeur Ordonnansie 1926" (Ordonnansie 1 van 1926):—

„Beloning van aangewers ten opsigte van edele metaal en edelgesteentes.

24 bis. (1) Andersluidende wetsbepalings ten spyte, kan enigemand (uitgesonderd 'n werknemer van die Administrasie of van die Regering van die Unie van Suid-Afrika) weens wie se inligting daar ingevolge enige wet beslag gelê word op enige edelgesteente of edele metaal, of op geld betrokke by onwettige handel met enige edelgesteente of edele metaal, na goedvinde van die Kommissaris van die Suid-Afrikaanse Polisie en met sy skriftelike magtiging, geldelik beloon word uit die inkomste wat die Administrasie toekom uit die verkoop van sodanige edelgesteente of edele metaal, of uit die beslaglegging op sodanige geld, maar dan met hoogstens een-derde van die koopgeld, of van die geld waarop beslag gelê is, na gelang.

(2) Elke sodanige beloning betaal die Administrasie se Rekenpligtige Aamptenaar asof dit 'n terugbetaling is uit die betrokke inkomste wat ooreenkomstig sub-artikel (3) van artikel *elf*, soos vervang deur artikel 1 van Ordonnansie 8 van 1928, in die Administrasie-rekening gestort word."

2. Hierdie Ordonnansie heet die Verdere Wysigings-ordonnansie op Finansie en Ouditering 1952.

No. 43 of 1952.]

ORDONNANSIE

Ter wysiging van die wet op openbare onderwys.

(Goedgekeur 8 November 1952.)
(Afrikaanse teks deur die Administrateur geteken.)

Die Wetgewende Vergadering van die Gebied Suidwes-Afrika VERORDEN:—

1. Artikel *vyf-en-tagtig* van die Onderwys Proklamasie 1926 (Proklamasie 16 van 1926) word hierby gewysig deur die byvoeging van die onderstaande voorbehoudsbepaling aan die slot daarvan:—

„Met dien verstande dat die Direkteur ten opsigte van private skole 'n afwyking kan magtig van die bepaling dat elke kalenderjaar vier skoolkwartale moet inhou."

2. Hierdie Ordonnansie heet die Verdere Wysigings-ordonnansie op die Onderwys 1952.

No. 44 van 1952.]

ORDINANCE

To amend the law relating to fencing.

*(Assented to 8th November, 1952.)
(Afrikaans text signed by the Administrator.)*

BE IT ORDAINED by the Legislative Assembly for the Territory of South West Africa as follows:—

1. The following section is hereby substituted for section *eleven* of the Second Schedule to the Fencing Proclamation (Proclamation 57 of 1921)—

"11. (1) The board shall have power to award to either owner as against the other owner the costs of, and incidental to, the determination of the matter, including the remuneration of and reasonable expenditure by the board.

(2) The Administrator shall from time to time fix the daily remuneration payable to a member of the board."

2. This Ordinance shall be called the Fencing Amendment Ordinance, 1952.

No. 45 of 1952.]

ORDINANCE

To amend the law relating to the survey of land in the Territory.

*(Assented to 8th November, 1952.)
(English text signed by the Administrator.)*

BE IT ORDAINED by the Legislative Assembly for the Territory of South West Africa as follows:—

1. In this Ordinance the expression "Principal Proclamation" means the Additional Land Survey Proclamation 1920, (Proclamation 78 of 1920), as amended by the Additional Land Survey Amendment Proclamation 1921 (Proclamation 45 of 1921), and by the Deeds Registry Proclamation 1939, (Proclamation 37 of 1939).

2. The following sub-section is hereby substituted for sub-section (1) of section *two* of the Principal Proclamation—

"2 (1) No diagram of a piece of land upon the original survey thereof shall be approved, unless there has been lodged with the Surveyor-General a document of admission, known as a Boundary Protocol, as far as is practicable in the form set forth in the schedule to this proclamation signed by or on behalf of all owners of land contiguous to the land surveyed and by two competent witnesses one of whom may be the land surveyor making the survey: Provided that in respect of any beacon which under this proclamation or any other law is a lawfully established beacon or when the several diagrams agree within the prescribed limit of error in respect of the position of the beacons represented thereon, no such document of admission shall be necessary. In respect of such a contiguous piece of land which is held by two or more owners in undivided shares it shall be sufficient if the document of admission be signed by the owners of a three-fourths part of or share in the land so held".

3. Subsection (6) of section *two* of the Principal Proclamation is hereby repealed.4. The following section is hereby substituted for section *seven* of the Principal Proclamation—

"7. The Surveyor-General shall approve a diagram, framed for the purpose of obtaining a consolidated title, which—

No. 44 of 1952.]

ORDONNANSIE

Ter wysiging van die wet op omheining.

*(Goedgekeur 8 November 1952.)
(Afrikaanse teks deur die Administrateur geteken.)*

Die Wetgewende Vergadering van die Gebied Suidwes-Afrika VERORDEN:—

1. Die volgende artikel vervang hierby artikel *elf* van die tweede bylae van die „Omheinings Proklamatie" (Proklamasie 57 van 1921) —

„11. (1) Die raad is bevoeg om aan een eienaar teenoor die ander eienaar sowel die koste van die saak as die koste wat die uitwysing daarvan meebring, toe te ken, met inbegrip van die raad se besoldiging en sy redelike uitgawe.

(2) Die Administrateur bepaal van tyd tot tyd die daaglikse besoldiging wat aan 'n lid van die raad betaal moet word."

2. Hierdie Ordonnansie heet die Wysigingsordonnansie op Omheining 1952.

No. 45 van 1952.]

ORDONNANSIE

Ter wysiging van die wet betreffende die opmeting van grond in die Gebied.

*(Goedgekeur 8 November 1952.)
(Engelse teks deur die Administrateur geteken.)*

Die Wetgewende Vergadering van die Gebied Suidwes-Afrika VERORDEN:—

1. In hierdie Ordonnansie dui die woord „hoofproklamasie" op die Addisionele Landmeting Proklamatie 1920 (Proklamatie 78 van 1920) soos gewysig by die Addisionele Landmeting Wysiging Proklamatie 1921 (Proklamatie 45 van 1921) en die Registrasie van Aktes Proklamasie 1939 (Proklamasie 37 van 1939).

2. Die volgende sub-artikel vervang hierby sub-artikel (1) van artikel *twee* van die hoofproklamasie —

„2. (1) Geen kaart van 'n stuk grond wat by die oorspronklike opmeting daarvan ontwerp is, word goedgekeur nie tensy daar 'n dokument van erkenning, genoem 'n grensprotokol, wat sower doenlik die formuler voor-geskrif in die bylae van hierdie Proklamasie navorig en wat onderteken is deur of namens alle eienaars van grond grensende aan die opgemete grond, en deur twee bevoegde getuies, van wie die landmeter wat die opmeting verrig een kan wees, by die Landmeter-generaal ingelewer word: Met dien verstande dat waar dit bakens betref wat wettig ingevolge hierdie Proklamasie of enige ander wet gevestig is, of bakens oor die ligging waarvan die verskillende kaarte binne die voorgeskrewe foutgrens ooreenkom, geen sodanige dokument van erkenning vereis word nie. Ten opsigte van so 'n aangrensende stuk grond wat deur twee of meer eienaars in onverdeelde aandeel besit word, is dit voldoende as die dokument van erkenning onderteken word deur die eienaars van 'n drie-kwarte deel van, of aandeel in, daardie grond".

3. Sub-artikel (6) van artikel *twee* van die hoofproklamasie word hierby herroep.4. Die volgende artikel vervang hierby artikel *sewe* van die hoofproklamasie —

„7. Die Landmeter-generaal moet 'n kaart goedkeur wat opgestel is ten einde 'n gekonsolideerde titelbewys te verkry, wanneer —

- (a) has been compiled, without any resurvey, from two or more diagrams representing several pieces of land, or
- (b) records numerical data obtained from the resurvey of two or more pieces of land, provided that the provisions of sub-section (1) of section nineteen shall *mutatis mutandis* apply.

5. The following section is hereby substituted for section *nineteen* of the Principal Proclamation —

"19. (1) If on the resurvey of any land or the survey of land for the purpose of division (in this section referred to as the resurvey), the numerical data derived from the resurvey are found to differ from those numerical data on the diagram of the land upon which any registration has been based, the Surveyor-General shall —

- (a) when the difference is beyond the prescribed limit of error, approve a diagram prepared in accordance with the resurvey as if the piece of land represented on the said diagram were a piece of land such as is referred to in sub-section (1) of section four: Provided that the provisions of section two and of sub-section (3) of section four have *mutatis mutandis* been complied with in regard thereto and to all matters in connection therewith: Provided further that any terminal beacon shall be deemed to be a corner beacon of the property under survey for the purposes of the document of admission referred to in sub-section (1) of section two;
- (b) when the difference is not beyond the prescribed limit of error and he is satisfied that the resurvey has been more accurately performed than the previous survey, and that the positions of the beacons and boundaries adopted in both surveys are identical, the Surveyor-General shall approve a new diagram of the land, or a diagram of any portion thereof, prepared in accordance with the resurvey;
- (c) when the difference is beyond the prescribed limit in respect of certain of the beacons and boundaries, while the numerical data of the remaining beacons and boundaries do not differ beyond the said limit, the Surveyor-General shall approve a new diagram of the land, or of any portion thereof, prepared in accordance with the resurvey, if the provisions referred to in paragraph (a) have been complied with in regard to those beacons and boundaries the data whereof differ beyond the prescribed limit of error, and the conditions referred to in paragraph (b) are present in regard to all other beacons and boundaries: Provided that, at his discretion, the Surveyor-General may approve the diagram without compliance with the provisions of sub-section (1) of section two in respect of any beacon or boundary in regard to which there is documentary evidence in his office proving that the position determined for such beacon or boundary is correct.

(2) If the Surveyor-General approves a diagram of the whole piece of land in terms of sub-section (1), he shall notify the Registrar of Deeds of such approval and thereafter no transfer, endorsement or any other act affecting the registration of such land or portion thereof or undivided share therein, shall be effected until the diagram has been lodged with the Registrar in order that he may make the necessary endorsement on the relative title deed in accordance with the law relating to the registration of deeds".

6. The following section is hereby substituted for section *twenty* of the Principal Proclamation —

"20. If the Surveyor-General is satisfied that the diagram of any piece of land entirely fails to represent such land or misrepresents it to such an extent that damage or loss may have or might result to any person who is or may become interested therein, he may give notice of such fact to the Registrar of Deeds and to the owner of such piece of land and thereafter no further registration of such piece of land or of any portion thereof or undivided share therein shall be effected in the deeds registry until a new diagram thereof has been approved and a certificate of amended title thereto has been issued or the title deed thereof has been endorsed, in accordance with such new diagram, under the law relating to the registration of deeds: Provided that if the Surveyor-General is unaware of the address of the owner of such piece of land, a publication of such notice in three consecutive issues of the *Official Gazette* and once

- (a) dit sonder 'n hermeting saamgestel is uit twee of meer kaarte wat verskeie stukke grond voorstel; of
- (b) dit getalgegevens verstrekket wat berus op die hermeting van twee of meer stukke grond: Met dien verstande dat die bepaling van sub-artikel (1) van artikel *negentien*, *mutatis mutandis* van toepassing is".

5. Die volgende artikel vervang hierby artikel *negentien* van die hoofproklamasie —

"19. (1) Wanneer by die hermeting of die opmeting van grond vir 'n verdeling (in hierdie artikel die hermeting genoem) blyk, dat daar 'n verskil bestaan tussen die getalgegevens verkry uit die hermeting en daardie getalgegevens op die kaart van bedoelde grond wat tot grondslag van 'n registrasie gestrek het, moet die Landmeter-generaal —

- (a) as die verskil die voorgeskrewe foutgrens oorskry, goedkeuring heg aan 'n kaart wat in ooreenstemming met die hermeting vervaardig is asof die stuk grond op bedoelde kaart voorgestel, 'n stuk grond is wat vermeld word in sub-artikel (1) van artikel vier: Met dien verstande dat die bepaling van artikel twee en van sub-artikel (3) van artikel vier met betrekking daartoe en tot alle desbetreffende aangeleenthede *mutatis mutandis* nagekom is: Met dien verstande voorts dat, enige eindbaken gehou word vir 'n hoekbaken van die grond wat opgemet word, vir die doeleindes van die dokument van erkenning waarna in sub-artikel (1) van artikel twee verwys word;
- (b) as die verskil nie die voorgeskrewe foutgrens oorskry nie en die Landmeter-generaal oortuig is dat die hermeting sekuerder uitgevoer is as die vorige opmeting en dat die ligging van die bakens en grense in altee daardie opmetings aangeneem, dieselfde is, moet hy goedkeuring heg aan 'n nuwe kaart van bedoelde grond, of aan 'n kaart van enige deel daarvan, wat in ooreenstemming met die hermeting vervaardig is;
- (c) as die verskil die voorgeskrewe foutgrens oorskry ten opsigte van siegs sekere van die bakens en grense, maar die getalgegevens van die oorblywende bakens en grense of ooreenstem of nie gemeelde foutgrens oorskry nie, moet die Landmeter-generaal goedkeuring heg aan 'n nuwe kaart van bedoelde grond, of aan 'n kaart van enige deel daarvan, wat in ooreenstemming met die hermeting vervaardig is, mits die bepaling vermeld in paragraaf (a) nagekom is ten opsigte van daardie bakens en grense waarvan die verskil in die gegewe die voorgeskrewe foutgrens oorskry, en al die ander bakens en grense aan die voorskrifte van paragraaf (b) voldoen: Met dien verstande dat die Landmeter-generaal na goedgekeurde die kaart sonder nakoming van die bepaling van sub-artikel (1) van artikel twee mag goedkeur ten opsigte van enige baken of grens in verband waarmee in sy kantoor dokumentêre bewys is wat bevestig dat die vasgestelde ligging van bedoelde baken of grens, juis is.

(2) As die Landmeter-generaal Ingevolge sub-artikel (1) 'n kaart van die hele stuk grond goedkeur, moet hy die Registrateur van Aktes van sodanige goedkeuring verwittig, en daarna mag geen transport, aantekening of enige andere handeling wat die registrasie van sodanige grond of gedeelte daarvan of onverdeelde aandeel daarin raak, plaasvind nie voordat die kaart by die Registrateur ingedien is sodat hy die nodige aantekening ooreenkomstig die wet op die registrasie van aktes op die betrokke titelbewys kan maak".

6. Die volgende artikel vervang hierby artikel *twintig* van die hoofproklamasie —

"20. As die Landmeter-generaal oortuig is dat die kaart van 'n stuk grond daardie grond hoegenaamd nie voorstel nie of dit in dié mate verkeerd voorstel, dat iemand wat 'n belang daarin het of mag verkry, daardeur skade of verlies sou kan ly, mag hy daardie feit meedeel aan die Registrateur van Aktes en aan die eienaar van daardie stuk grond, en daarna mag geen verdere registrasie van daardie stuk grond of van 'n deel daarvan, of van 'n onverdeelde aandeel daarin in 'n registrasiekantoor plaasvind nie totdat 'n nuwe kaart daarvan goedgekeur is, en 'n sertifikaat van gemeendeerde titel daarop uitgegee is, of 'n aantekening gemaak is op die titelbewys daarvan in ooreenstemming met daardie nuwe kaart. Ingevolge die wet op die registrasie van aktes: Met dien verstande dat as die Landmeter-generaal die adres van die eienaar van daardie stuk grond nie ken nie, die bekendmaking van voormelde

every week during three consecutive weeks in a newspaper circulating in the district in which such piece of land is situate, shall be deemed to be sufficient notice to such owner for the purpose of this section".

mededling in drie agtereenvolgende uitgawes van die *Offisiële Koerant* en eenkeer elke week gedurende drie agtereenvolgende weke in 'n nuusblad in omloop in die distrik waarin daardie stuk grond lê, beskou word as voldoende mededling aan daardie eienaar vir die doeleindes van hierdie artikel".

7. This Ordinance shall be called the Additional Land Survey Proclamation Amendment Ordinance, 1952.

7. Hierdie Ordonnansie heet die Addisionele Landmetingsproklamasie Wysligings-Ordonnansie 1952.

SCHEDULE / BYLAE.

BOUNDARY PROTOCOL / GRENS PROTOKOL.

Boundary Protocol relating to the beacons and boundaries of
 Grensprotokol met betrekking tot die bakens en grenslyne van
 in die
 under the provisions of sub-section (1) of section 2 of Proclamation No. 78 of 1920.
 ooreenkomstig die bepalinge van sub-artikel (1) van artikel 2 van Proklamasie No. 78 van 1920.

We, the undersigned,
 Ons, die ondergetekendes,

- | | |
|----------|-------------------------|
| 1. _____ | owner of
eienaar van |
| 2. _____ | owner of
eienaar van |
| 3. _____ | owner of
eienaar van |
| 4. _____ | owner of
eienaar van |

herely consent to the positions of the beacons and boundaries of our said properties as adopted in the survey of the piece
 stem inasienie in met die ligging van die bakens en grenslyne van ons gaceemde eiendomme waarop die opmeting van
 of land designated.
 die stuk grond.

South West Africa, by Mr. Surveyor
 Suidwes-Afrika, deur Landmeter

and represented on the figure appearing on this document,
 en voorgestel op die figuur wat op hierdie dokument ver-
 and we consent to a diagram being framed in accordance therewith.
 sijn en ons stem toe tot die vervaardiging van 'n kaart in ooreenstemming daarmee.

NAME Naam	Signature Handtekening	Beacons and Boundaries indicated on figure appearing on this docu- ment and hereby consented to. Bakens en grense aangegee op fi- guur op hierdie dokument waarmee instem.	Getuies by ondertekening. Witnesses to Signature.
1.			1. _____ 2. _____
2.			1. _____ 2. _____
3.			1. _____ 2. _____
4.			1. _____ 2. _____

Figure representing the land under survey and the common beacons and boundaries of contiguous properties.
 Figuur van grond wat gemeet word en gemeenskaplike bakens en grense van aangrensende eiendomme.

Land Surveyor / Landmeter.

No. 46 of 1952.]

ORDINANCE

To amend and consolidate the laws of the Territory relating to roads and outspans, and to make provision for matters incidental thereto.

(Assented to 24th November, 1952.)

(Afrikaans text signed by the Administrator.)

BE IT ORDAINED by the Legislative Assembly of the Territory of South West Africa as follows:—

1. The laws mentioned in the Schedule of this Ordinance are hereby repealed, together with the provisions of any other law inconsistent with this Ordinance.

2. In this Ordinance, unless the context clearly indicates some other meaning—

“board” shall mean the Roads Board constituted under section nine;

“bridge” shall include a culvert and/or causeway;

“construct and construction” shall include the surveying or beaconing-off of land, the clearing of tree-stumps, and all other construction work in connection with a road or with bridges, pons and ferries, drifts or causeways in the course of such road or proposed road, and all approaches, cuttings, embankments, subways, culverts, sloots, drains, dams, kerbs, fences, parapets and any alteration, deviation or improvement of such road, as well as any work or thing forming part of, or connected with, road construction;

“maintain and maintenance” shall include the repair and care of a road and of any construction in the course thereof, or forming part thereof, as well as any work or thing in connection with such repair or care thereof;

“district” shall mean the district or part thereof under the jurisdiction of the board;

“local authority” shall mean a town council constituted under the provisions of the Municipal Ordinance, 1949 (Ordinance 3 of 1949), as amended, or a village management board constituted under the provisions of the Village Management Boards Ordinance, 1937 (Ordinance 16 of 1937), as amended;

No. 46 van 1952.]

ORDONNANSIE

Ter wysiging en konsolidering van die Gebiedswette op paaië en uitspanplekke, en ter reëling van verbandhoudende sake.

(Goedgekeur 24 November 1952.)

(Afrikaanse teks deur die Administrateur geteken.)

Die Wetgewende Vergadering van die Gebied Suidwes-Afrika VERORDEN as volg:—

1. Die wette genoem in die bylaag van hierdie Ordonnansie word hierby herroep, tesame met elke ander wetsbepaling wat strydig is met hierdie Ordonnansie.

2. Tensy die sinsverband klaarblyklik 'n ander bedoeling aandui, beteken in hierdie Ordonnansie —

„raad” die Padraad ingestel ingevolge artikel nege;

„brug” ook 'n deurlaat en/of 'n sementdrif;

„aanlê” en „aanleg” ook die opmeting of afbakening van grond, die uitgraving van booinstompe, en alle ander bouwerk in verband met 'n pad of in verband met brûe, ponte en vere, driewe, sementdriewe in die loop van so 'n pad of voorgestelde pad, en alle opritte, deurgrawings, walle, duikweë, deurlate, slote, riole, damme, kanstene, omheinings, weringsmure en afskuttings, sowel as enige verandering, verlegging of verbetering van so 'n pad, en enige werksaamheid of saak wat deel is van die padbouwerk of wat daarmee in verband staan;

„instandhouding” en „instandhou” ook die herstel en versorging van so 'n pad en van elke aanleg in die loop daarvan, of wat deel is daarvan, as ook enige werksaamheid of saak wat in verband met sodanige herstelwerk of versorging staan;

„distrik” die distrik of landstreek wat die raad se regsgebied uitmaak;

„plaaslike bestuur” 'n stadsraad ingestel ingevolge die bepalings van die Municipale Ordonnansie 1949 (Ordonnansie 3 van 1949) soos gewysig, of 'n dorpsbestuur ingestel ingevolge die bepalings van die Ordonnansie op Dorpsbesture 1937 (Ordonnansie 16 van 1937) soos gewysig.

"*magistrate*" shall mean the magistrate of a magisterial district, and shall include any other officer lawfully acting as such;

"*owner*" shall mean—

- (a) in respect of land of which the title deeds have been registered in the Deeds Office of the Territory, the registered owner;
- (b) any lessee of Crown land, whether the contract of lease in terms of which he is in possession of the land has been registered in the Deeds Office of the Territory or not;

"*public road*" shall mean any road proclaimed or assigned or being proclaimed or assigned as a public road under the provisions of this Ordinance or of any other Ordinance;

Provided that, saving paragraphs (d), (e) and (f) of section five and Chapter IV hereof, the provisions of this Ordinance shall not apply within the area of any local authority;

"*trunk road*" shall mean a public road forming part of the road system connecting the Territory as a whole with surrounding territories, which has been proclaimed a "trunk road" under this Ordinance;

"*main road*" shall mean a public road connecting important centres within the Territory, which has been proclaimed a "main road" under this Ordinance;

"*district road*" shall mean a public road carrying a reasonable amount of traffic which has been proclaimed a "district road" under this Ordinance;

"*road*" shall include any road, bridge, pont or ferry, excluding private bridges or pons or ferries, and any drift or causeway in the course of such road, and all approaches, cuttings, embankments, subways, culverts, sluots, drains, dams, kerbs, fences, parapets, guards and any other work or thing forming part of, or connected with, such road;

"*roadway*" shall mean that part of a public road designed, constructed or intended for use by vehicles;

"*road reserve*" shall mean that part of a public road adjoining the roadway on either side;

"*grazing area*" shall mean a strip of land set aside as public grazing ground for travelling stock in terms of section forty-two of this Ordinance;

"*farm*" shall include pieces of land registered as a farm or portion of a farm in the Deeds Office of the Territory, and, for the purposes of Chapter VI hereof, also a native reserve constituted in terms of section sixteen of the Native Administration Proclamation, 1922 (Proclamation 11 of 1922), as amended;

"*Chief Roads Engineer*" shall mean the officer appointed as such by the Administrator.

CHAPTER I. PUBLIC ROADS.

3. The control and supervision of all roads within the Territory shall be vested in the Administrator.

4. The width of public roads, including roadway and road reserve, shall be sixty metres: Provided that the Administrator may reduce such width, or, subject to the provisions of sub-section (2) of section seventy-one, may increase such width, when he is satisfied that it is necessary to do so.

5. The Administrator may from time to time by proclamation in the *Official Gazette*—

- (a) declare any road to be a public road;
- (b) declare that a public road shall exist on land where no road was previously in existence, or re-open a road which has been closed, and define the course of such road after investigation and report by the board and/or the Chief Roads Engineer;
- (c) close or deviate any public road after investigation and report by the board and/or the Chief Roads Engineer;

"*magistraat*" die magistraat van 'n magistrantsdistrik, as ook enige ander amptenaar wat volgens wet as magistraat optree;

"*eienaar*" —

(a) met betrekking tot grond waarvan die titelbewys in die Gebied se Akteskantoor geregistreer staan, die geregistreerde eienaar;

(b) enige huurder van kroongrond onverskillig of die huurkontrak waarkragtens hy die grond besit in die Gebied se Akteskantoor geregistreer staan of nie.

"*publieke pad*" enige pad wat ingevolge hierdie Ordinance of enige ander Ordinance tot publieke pad geproklameer of aangewys word of is.

Met dien verstande dat, uitgesonderd paragrawe (d), (e) en (f) van artikel vijf en hoofstuk IV hiervan, die bepalings van hierdie Ordinance nie binne die gebied van 'n plaaslike bestuur geld nie;

"*hoofpad*" 'n publieke pad wat deel is van die padstelsel wat die Gebied as geheel met omliggende gebiede verbind, en wat ingevolge hierdie Ordinance tot "hoofpad" geproklameer word;

"*grootpad*" 'n publieke pad wat belangrike sentra binne die Gebied met mekaar verbind, en wat ingevolge hierdie Ordinance tot "grootpad" geproklameer word;

"*distrikspad*" 'n publieke pad waarop daar redelik veel verkeer plaasvind, en wat ingevolge hierdie Ordinance tot "distrikspad" geproklameer word;

"*pad*" enige pad, brug of pont of veer, uitgesonderd private brúe of pons, en enige drijf of sementdrijf in die loop van sodanige pad, en alle opritte, deurgrawings, walle, duikweë, deurloupe, sloe, afloopore, damme, kantstene, omheinings, weringsmure, voorwalle en enige ander werksaamheid of saak wat deel is van 'n pad of wat daarmee in verband staan;

"*ryvlak*" daardie deel van 'n publieke pad wat ontwerp, gebou of bestem is vir die gebruik van voertuie;

"*padreserwe*" die deel van 'n publieke pad aan weerskante van die ryvlak;

"*weiplek*" 'n strook grond wat ingevolge artikel twee-entwintig van hierdie Ordinance afgeonderd word as publieke weigronde vir trekweë;

"*plaas*" ook stukke grond geregistreer as 'n plaas of plaasdeel in die Akteskantoor van die Gebied, en, by die toepassing van hoofstuk VI hiervan, omvat dit 'n natuurelreserwe gestig ingevolge artikel sesien van die "Natuurlike Administrasie Proklamasie 1922" (Proklamasie 11 van 1922) soos gewysig;

"*Hoofpadingenieur*" die amptenaar as sodanig deur die Administrateur aangestel.

HOOFSTUK I: PUBLIEKE PAAIE.

3. Alle publieke paaie binne die Gebied staan, onder die beheer en toesig van die Administrateur.

4. Die breedte van publieke paaie, dit wil sê, van ryvlak en padreserwe saam, sal sesig meter wees: Met dien verstande dat die Administrateur die breedte kan verminder, of, behoudens die bepalings van sub-artikel (2) van artikel een-en-sewentig, kan vermeerder by oortuiging dat dit noodsaaklik is.

5. By proklamasie in die *Offisiële Koerant* kan die Administrateur van tyd tot tyd —

- (a) 'n pad tot publieke pad proklameer;
- (b) afkondig dat 'n publieke pad oor grond sal loop waar daar voorheen geen pad bestaan het nie, of 'n geslote pad heropen, en die loop van so 'n pad bepaal na ondersoek en verslag deur die raad en/of die Hoofpadingenieur;
- (c) 'n publieke pad na ondersoek en verslag deur die raad en/of die Hoofpadingenieur sluit of verlé;

- (d) after consultation with the local authority concerned and for the purposes of this Ordinance, proclaim any road referred to in the proviso to the definition of "public road", as a public road;
- (e) after consultation with the local authority concerned, declare that a public road shall exist on land within the area of such local authority, where no public road existed previously, or, where such road has been closed, re-open it, and define the course of such road;
- (f) after consultation with the local authority concerned, close or deviate any public road proclaimed in terms of paragraph (d) or (e) hereof;
- (g) declare any public road to be a trunk, main or district road, or repeal or amend any such proclamation.

6. (1) Subject to the provisions of the Motor Vehicle and Wheel Tax Ordinance, 1937 (Ordinance 17 of 1937), as amended, the Administrator may at any time and upon such notice as he may deem fit, close temporarily or permanently for any particular class of traffic, or for all traffic, any public road, or deviate such road temporarily and regulate the traffic thereon during maintenance work on the original road.

(2) Any person using such public road while it is closed, shall be guilty of an offence.

7. Subject to the provisions of sub-section (1) of section seventy-one the Administrator, or any person acting under his authority, may for the purposes of discharging the duties and powers conferred and imposed upon him by this Ordinance, and after notice to the owner of any piece of land, enter upon, or take possession of, such land.

8. Notwithstanding anything to the contrary contained in the Municipal Ordinance, 1949 (Ordinance 3 of 1949), the Administrator shall be responsible for the construction and maintenance of that portion or extension of any public road in terms of this Ordinance, running within the boundaries of an area of a local authority, as far as the boundaries of the first surveyed erven.

CHAPTER II.

CONSTITUTION, POWERS AND DUTIES OF ROADS BOARDS.

9. The Administrator may from time to time by proclamation in the *Official Gazette*—

- (a) constitute for any area outside that of a local authority a roads board consisting of a magistrate, who shall be the chairman and four other members appointed by the Administrator subject to the provisions of section ten: Provided that the Administrator may in addition to such members appoint other persons *ex officio* members of such board, such *ex officio* members shall hold office during the pleasure of the Administrator and shall have the right to take part in the proceedings of the board but shall not have the right to vote. The Administrator may from time to time determine the amount to be paid to any member, including *ex officio* members, for travelling and other expenses on the business of the board;
- (b) increase, alter or diminish the area of jurisdiction of any board constituted under this section and, on cause being shown to his satisfaction, dissolve or abolish such board.

10. No person shall be appointed, or act as a member or an *ex officio* member of a board—

- (a) who has been convicted of any offence for which imprisonment without the option of a fine has been imposed as a punishment, unless he shall have received a free pardon or his period of imprisonment shall have expired at least three years prior to the date of his appointment; or
- (b) who is of unsound mind or is under curatorship; or
- (c) whose estate is held in liquidation or in trust for his creditors; or
- (d) who is an unrehabilitated insolvent; or
- (e) who is not a Union national; or
- (f) who is under the age of 21 years.

- (d) na beraadslaging met die betrokke plaaslike bestuur enige pad wat in die voorbehoud by die woordbepaling „publieke pad” bedoel word, ter uitvoering van hierdie Ordonnansie tot publieke pad proklameer;
- (e) na beraadslaging met die betrokke plaaslike bestuur, afkondig dat daar 'n publieke pad sal loop oor grond binne die gebied van so 'n plaaslike bestuur waar daar voorheen geen publieke pad bestaan het nie, of, waar so 'n pad gesluit is, dit heropen, en die loop van so 'n pad bepaal;
- (f) na beraadslaging met die betrokke plaaslike bestuur 'n publieke pad wat ingevolge paragraaf (d) of (e) hiervan geproklameer is, sluit of verlé;
- (g) enige publieke pad tot hoofpad, grootpad of distriks-pad, proklameer, of 'n dergelike proklamering intrek of wysig.

6. (1) Behoudens die bepalings van die Ordonnansie op Motorvoertuie en Wielbelasting 1937 (Ordonnansie 17 van 1937) soos gewysig, kan die Administrateur volgens goeddunke te eniger tyd na kennisgewing 'n publieke pad tydelik of blywend vir een of elke soort voertuig, of vir alle verkeer, sluit; ook kan hy 'n pad tydelik verlé en die verkeer daarop reël vir die duur van instandhoudingswerk aan die oorspronklike pad.

(2) Elkeen wat so 'n publieke pad gebruik solank dit gesluit is, is skuldig aan 'n oortreding.

7. Behoudens die bepalings van sub-artikel (1) van artikel een-en-sewentig kan die Administrateur of sy gemagtigde ter uitoefening van die bevoegdhede en pligte wat hierdie Ordonnansie aan hom opleë en verleen, na kennisgewing aan die eienaar enige stuk grond betree of in besit neem.

8. Andersluidende bepalings in die Munisipale Ordonnansie 1949 (Ordonnansie 3 van 1949) ten spyte, is die Administrateur verantwoordelik vir die aanleg en instandhouding van die deel of verlenging van 'n publieke pad ingevolge hierdie Ordonnansie wat binne die grense van 'n plaaslike bestuursgebied loop tot by die grense van die eerste opgemette erwe.

HOOFSTUK II.

SAMESTELLING, BEVOEGHDEDE EN PLIGTE VAN PADRADE.

9. Die Administrateur kan van tyd tot tyd by proklamasie in die *Offisiële Koerant* —

- (a) vir 'n strek buite 'n plaaslike bestuursgebied 'n Padraad instel met 'n magistraat as voorsitter en nog vier lede wat die Administrateur benoem met inagneming van die bepalings van artikel tien: Met dien verstande dat die Administrateur bowendien andere as *ex officio* lede van so 'n raad kan benoem, en dat sodanige *ex officio* lede hul ampte beklee solank dit die Administrateur behaag, en dat hulle sonder stemreg aan die raad se verrigtinge deelneem. Die Administrateur kan van tyd tot tyd die bedrag bepaal wat aan 'n lid, insluitende *ex officio* lede betaal moet word ten opsigte van reis- of ander ontkoste in die raad se diens;
- (b) die regsbepaling van rade wat by hierdie artikel ingestel word, uitbrei, wysig of beperk, en, om redes syns insiens voldoende, sulke rade ontbind of totaal afskaf.

10. Niemand mag as lid of *ex officio* lid van 'n raad benoem word of optree nie —

- (a) wat tot gevangenisstraf sonder die keuse van 'n boete veroordeel is, tensy daar aan hom gracie verleen is of tensy hy sy straf tyd minstens drie jaar voor die benoeming uitgedien het; of
- (b) wat swaksinig is of onder kuratelle staan; of
- (c) wie se boedel in likwidasië of trust gehou word vir sy krediteure; of
- (d) wat 'n ongerehabiliteerde bankroetier is; of
- (e) wat nie 'n Unie-burger is nie; of
- (f) wat jonger as 21 jaar is.

11. A member or an *ex officio* member of the board shall vacate his office—

- (a) if any of the circumstances described in section ten, arise even though such circumstances occur after his appointment; or
- (b) if he has been removed from office by the Administrator in terms of section twelve; or
- (c) if he has been convicted of a contravention of section seventeen; or
- (d) if his appointment as an *ex officio* member has been cancelled by die Administrator.

12. The Administrator may suspend or remove any member of a board from his office for incapacity, misconduct or for any other valid reason.

13. Unless otherwise provided in this Ordinance or determined by the Administrator, every member of a board shall hold office for a period of three years from the date of his appointment.

14. If any member or *ex officio* member of the board shall during his term of office, die, resign or become or be found disqualified under any law, or otherwise vacate his seat thereon, the Administrator may appoint a successor to fill the vacancy so caused for the unexpired term of office.

15. The chairman and two other members shall form a quorum: Provided that during the absence of a magistrate from the seat of his magistracy, he may appoint the senior officer on his magisterial staff to act as chairman during such absence.

16. The board shall—

- (a) have such powers and duties as may be prescribed by this Ordinance;
- (b) assist and advise the Administrator on all matters relating to public roads within its district and to outspans, whether within its district or within the area of a local authority contiguous to such district;
- (c) obtain and transmit to the Administrator all information he may require in connection with the administration of this Ordinance or the regulations thereunder;
- (d) generally carry out all such functions as the Administrator may from time to time assign to it.

17. (1) No member of the board shall vote upon, or take part in, or in his capacity as a member, be present at the discussion of any matter by the board in which he himself, his spouse, his partners or his nearest blood relations, have any direct or indirect pecuniary interest.

(2) Any member wilfully contravening the provisions of this section shall be guilty of an offence and shall on conviction vacate his seat on the board.

18. (1) No member of a board shall be prohibited by reason of his office from contracting with the Administration or the board either as seller, purchaser or otherwise, or shall any contract, entered into by or on behalf of the board or the Administration in which any member of the board shall be in any way directly or indirectly interested, be void on such account.

(2) Where any member of a board is interested otherwise than as a shareholder in a limited liability company in any contract with the board or the Administration or any sub-contract or subsequent contract arising from such main contract, which involves the expenditure or receipt by the board or the Administration of one hundred pounds or more, such member shall immediately on being acquainted with such fact, disclose it in writing to the board and to the Administrator, and such disclosure shall be entered in the minutes of the next succeeding meeting of the board.

(3) Any member of the board who contravenes this section by omitting to disclose his interest in any contract with the board or the Administration shall be guilty of an offence and shall be liable on conviction to a fine not exceeding two hundred pounds and in default of payment to imprisonment with or without hard labour for a period not exceeding two years, and the court convicting

11. 'n Lid of *ex officio* lid van die raad moet sy amp neerlê —

- (a) sodra een van die omstandighede waaroor artikel tien gaan, intree, al gebeur dit na sy benoeming; of
- (b) as die Administrateur hom ooreenkomstig artikel twaalf uit sy amp ontslaan; of
- (c) as hy weens 'n oortreding van artikel sewentien veroordeel word; of
- (d) as sy benoeming as *ex officio* lid deur die Administrateur ingetrek word.

12. Die Administrateur kan 'n raadslid skors of uit sy amp ontslaan weens onbekwaamheid, wangedrag of ander geldige rede.

13. Buiten waar hierdie Ordonnansie of die Administrateur dit anders bepaal, duur elke raadslid se ampstermyn drie jaar van sy benoeming af.

14. As 'n lid of *ex officio* lid van die raad gedurende sy ampstyd sterf, bedank of wetlik onbevoeg word of onbevoeg bevind word, of andersins sy setel in die raad ontruim, kan die Administrateur 'n opvolger benoem om daardie ampstermyn te voltooi.

15. Die voorsitter en nog twee lede is 'n kworum: Met dien verstande dat waar die magistraat van sy hofsetel afwesig is, hy die senior amptenaar van sy magistraatspersoneel skriftelik kan benoem om dan as voorsitter op te tree.

16. Die raad —

- (a) besit sodanige bevoegdhede en pligte soos hierdie Ordonnansie bepaal;
- (b) moet die Administrateur hulp en raad gee in verband met alle aangeleenthede betreffende publieke paaie in sy distrik, en in verband met uitspanplekke hetsy binne sy distrik of binne 'n plaaslike bestuursgebied wat aan sy distrik grens;
- (c) moet al die inligting inwin en deurstuur wat die Administrateur aanvra oor die toepassing van hierdie Ordonnansie of oor die regulasies wat hieruit voortvloei;
- (d) moet oor die algemeen al daardie werksaamhede verrig wat die Administrateur van tyd tot tyd aan die raad opdra.

17. (1) Geen raadslid mag stem in verband met, of deelneem aan, of in sy hoedanigheid as lid teenwoordig wees by, die raad se bespreking van enige saak waarby hy, of sy eggenote, of sy vennote, of sy naaste bloedverwante 'n regstreekse of onregstreekse geldbelang het nie.

(2) 'n Raadslid wat die bepalings van hierdie artikel opsetlik verontagsaam, is skuldig aan 'n oortreding, en verbeur by veroordeling sy setel in die raad.

18. (1) Sy amp belet 'n raadslid geensins om hom as koper of verkoper of andersins met die Administrasie of die raad te verbind nie, nóg is 'n verbintenis, aangegaan deur of namens die raad of die Administrasie, waarby 'n raadslid enigins 'n regstreekse of onregstreekse belang het, daarom ongeldig nie.

(2) As 'n raadslid, behalwe as aandeelhouer in 'n maatskappy met beperkte aansprekbaarheid, belang het in 'n verbintenis met die raad of die Administrasie, of in 'n byverbintenis, of 'n latere verbintenis wat uit die hoofverbintenis voortvloei, wat die uitgaaf of ontvangs van eenhonderd pond of meer deur die raad of die Administrasie meebring, moet die raadslid daardie feit skriftelik aan die raad en aan die Administrateur mededeel sodra hy daarvan weet, en moet dit ook by die eersvolgende raadsvergadering genoteuler word.

(3) 'n Raadslid wat hierdie artikel verontagsaam deur te versuim om so 'n belang by enige verbintenis met die raad of die Administrasie mee te deel, is skuldig aan 'n oortreding, en is by veroordeling strafbaar met 'n boete van hoogstens twee honderd pond, en, by wanbetaling, met gevangenis van hoogstens twee jaar met of sonder dwangarbeid, en die vonnisvellende hof kan sy setel vakant ver-

him may order that he vacate his seat: Provided, however, that the court shall not pass such sentence if it is proved by the member that his omission to make such a disclosure was due to his absence from his district or to illness or other good cause.

(4) It shall be the duty of the Controller and Auditor-General to report to the Administrator any case in which it appears to him that there has been a failure to comply with the provisions of this section.

CHAPTER III.

CONSTRUCTION, MAINTENANCE, OPENING, CLOSING AND DEVIATION OF PUBLIC ROADS.

CONSTRUCTION AND MAINTENANCE:

19. Subject to the provisions of this Ordinance and of the Motor Vehicle and Wheel Tax Ordinance, 1937 (Ordinance 17 of 1937), as amended, and when funds permit, the Administrator shall have power and authority in the following matters—

- the construction, maintenance and control of all trunk, main and district roads, and, subject to the provisions of section four hereof, the fixing of the width of all public roads;
- the provision and maintenance of all such milestones, signposts and other traffic signs as may be found necessary for the regulation and safety of traffic on public roads;
- the provision and maintenance of outspans, wells and watering places for the use of the public on such roads;
- the erection and maintenance of dwelling houses and other buildings on the road reserve or elsewhere for the purposes of this Ordinance.

20. If a public road, not being a trunk, main or district road, is in need of repair, interested persons may apply to the Administrator through the Roads Board to have the necessary repairs made, and thereupon the Administrator may have the costs of repairing such road estimated, and may, if such repairs are carried out by such interested persons and if the work has been done satisfactorily, consent to contribute up to a half of the actual cost thereof out of the Roads Fund, or the Administrator may carry out the work with moneys from the Roads Fund if the board satisfies him that those interested persons have contributed, or have given approved security that they will contribute, not less than a half of the amount so estimated, either in cash, labour or otherwise as the Administrator approves.

OBTAINING MATERIALS:

21. For the purposes of the construction, maintenance or repair of any public road, the Administrator may, through his representatives, officials or contractors, and with any vehicles, tools, materials, or animals, enter upon any land, and after notice to the owner, lessee or occupier of such land, but without compensation to him, take and remove any material therefrom which may be necessary for such construction, maintenance or repair: Provided that—

- nothing shall be removed from any garden or other land usually cultivated, nor from any place within three hundred yards of any house, nor within fifty yards of any kraal;
- every excavation be filled up again or properly fenced-off or otherwise made safe for human beings and animals;
- the Administrator, his representatives, officers or contractors in exercising these powers take every care to prevent damage, injury, loss or discomfort to the owner, lessee or occupier concerned.

22. The Administrator, through his representatives, officers or contractors, shall further have the right—

- where no other accommodation is available, to erect tents or other temporary dwellings for road workers on private land and select or assign storage space for their equipment and material: Provided that such dwelling and storage areas be selected in consultation with the owner;

klaar: Met dien verstande dat die hof egter geen sodanige vonnis mag vel nie waar die raadslid bewys dat sy verzuim om so 'n mededeling te doen, te wyte was aan sy afwesigheid uit die distrik, of aan siekte of aan 'n ander gegronde oorsaak.

(4) Dit is die Kontroleur- en Ouditeur-generaal se plig om die Administrateur te verwittig van elke geval waar die bepalings van hierdie artikel sins insiens verontagzaam is.

HOOFSTUK III.

DIE AANLEG, INSTANDHOUDING, OPENING, SLUITING EN VERLEGGING VAN PUBLIEKE PAAIE.

AANLEG EN ONDERHOUD:

19. Behoudens die bepalings van hierdie Ordonnansie en van die Ordonnansie op Motorvoertuie en Wielbelasting 1937 (Ordonnansie 17 van 1937) soos gewysig, en as die geldmiddelle dit veroorloof, besit die Administrateur bevoegdheid en gesag in die onderstaande sake —

- die aanleg, instandhouding en beheer oor alle hoof-, groot-, en distrikspaaie, en (behoudens die bepalings van artikel vier hiervan) die breedtebepaling van alle publieke paaie.
- die aanskaffing en instandhouding van al die mylpale, padwysers en ander verkeerstekens wat nodig blyk ter reëling en beskerming van die verkeer op publieke paaie;
- die inrigting en instandhouding van uitspanplekke, putte en drinkplekke vir openbare gebruik op sulke paaie;
- die oprigting en instandhouding van woon- en ander geboue, in die padreserwe of elders, ter uitvoering van die bepalings van hierdie Ordonnansie.

20. Waar 'n publieke pad wat nie 'n hoof-, groot-, of distrikspad is nie, herstel moet word, kan die belanghebbendes deur die Padraad om die nodige herstelwerk by die Administrateur aansoek doen, en daarop kan die Administrateur die herstelkoste laat beraam, en as die belanghebbendes self die herstelwerk onderneem, kan die Administrateur, as die werk beredigend uitgevoer is, toestem om tot op die helfte van die werklike koste daarvan uit die Padfonds by te dra, of anders kan die Administrateur self die werk op koste van die Padfonds laat uitvoer as die raad aan hom bewys lewer dat die belanghebbendes minstens die helfte van die aldus beraamde bedrag bygedra het, of goedgekeurde waarborg gestel het dat hulle dit sal bydra, licty met kontant of arbeid of andersins soos die Administrateur goedkeur.

VERKRYGING VAN MATERIAAL:

21. Met die oog op die aanleg, instandhouding of herstel van 'n publieke pad kan die Administrateur, deur sy verteenwoordigers, beamptes of onderneemers, enige grond met enige voor- of werktuig, materiaal of dier betree, en kan die Administrateur na kennisgewing aan die eienaar, huurder of bewoner van sodanige grond, maar sonder vergoeding aan hom, enige materiaal daarvandaan wegvoer wat nodig blyk by sodanige aanleg, instandhouding of herstel: Met dien verstande dat —

- daar niks uit enige tuin of ander gewoonlik beboude grond, nóg binne driehonderd jaars van enige huis, nóg binne vyftig jaars van enige kraal, verwyder word nie;
- elke uitgraving so spoedig doenlik weer opgeval of behoorlik omhein word; of andersins vir mens en dier onskadelik gemaak word;
- die Administrateur, sy verteenwoordigers, beamptes of onderneemers by die uitoefening van hierdie bevoegdhede alle sorg dra om skade, nadeel, verlies of ongerief aan die betrokke eienaar, huurder of bewoner te verhoed.

22. Voorts kan die Administrateur, deur sy verteenwoordigers, beamptes of onderneemers —

- waar geen ander geleentheid hom voordoen nie, tente of ander tydelike woongeriewe vir padwerkers op private grond opslaan en bewaarplekke vir hulle toerusting en materiaal oprig of uitkies: Met dien verstande dat die woon- en bewaarplekke in oorleg met die eienaar gekies word;

- (b) to take and otherwise make provision for water necessary in the construction or maintenance of a public road: Provided that no water shall be taken from any artificial dam, well or borehole save with the consent of the owner;
- (c) take firewood: Provided that where large amounts are needed for the use of roadworkers, firewood may only be taken with the owner's consent;
- (d) to cut down and remove trees or brushwood where the construction or maintenance of public roads or the safety of traffic demands it: Provided that such trees or brushwood when cut down shall belong to the owner of the property concerned.

23. The rights granted to the Administrator under the provisions of the last two preceding sections may be exercised by the contractors engaged in the construction, repair and maintenance of roads, bridges and drifts on his behalf: Provided that in case of any damage caused by a contractor any compensation payable under this Ordinance may be recovered from the Administrator, who may thereafter in turn claim indemnity from the contractor.

24. (1) Notwithstanding the provisions of this Ordinance the Chief Roads Engineer or any European employee of the Roads Branch may erect any warning signs on any public road or on any part of a public road while it is under construction or while any other necessary work in connection with it is in progress, and any person using a public road while such work is being done, shall have no claim for compensation because of an accident or injury, but shall be liable for injury or damage caused by him to Roads Branch personnel or equipment.

(2) Any person using a public road while it is closed by a warning sign, or disregarding the instruction on such a sign, or obliterating, damaging, removing or shifting an official notice, sign or obstruction, shall be guilty of an offence.

PONT SERVICES:—

25. The Administrator may—

- (a) provide pont services across rivers and make the necessary anchorages, landings and approaches within or beyond the limits of the road;
- (b) charge pont tariffs for the transport of travellers, vehicles and stock, and fix such tariffs from time to time: Provided that no fees shall be charged for any transport in respect of Administration services;
- (c) enter into contracts for the construction and maintenance, letting or hiring of pons on such conditions as regards tariffs as he may think fit;
- (d) co-operate with the Administrations of neighbouring territories for the provision of pont services across rivers along the Territory's borders, and enter into any agreement with such Administrations about the control, management and maintenance of such services.

THE OPENING, CLOSING AND DEVIATION OF PUBLIC ROADS:

26. Whenever—

- (a) at least two interested adult European inhabitants of a roads board area propose in writing to the board the construction of a new public road, or the conversion of a road into a public road, or the closing or deviation of a public road, or the alteration of the status of a public road, within that roads board area; or
- (b) the owner, lessee or occupier of a farm across which a public road runs, proposes in writing to the board that such road be closed or deviated; or
- (c) the board itself proposes that a new public road be constructed, or that a road be converted into a public road, or that any public road except a trunk or main road be closed or deviated, or that its status be altered—

- (b) water neem, of maatreëls ter waterverkryging tref, waar die aanleg of instandhouding van 'n publieke pad dit vereis: Met dien verstande dat geen water sonder eienaarstoestemming uit 'n gemaakte dam, put of boortgat geneem mag word nie;
- (c) vuurmaakhout neem: Met dien verstande dat waar groot hoeveelhede vir die gebruik van padwerkers nodig is, dit slegs met eienaarstoestemming geneem mag word;
- (d) bome of kreupelhout afkap en verwyder waar die aanleg of instandhouding van 'n publieke pad, of die verkeersveiligheid, dit vereis: Met dien verstande dat sodanige bome of kreupelhout na afkapping aan die grondeenaar behoort.

23. Die regte wat die Administrateur by die twee voorgaande artikels verkry, kan ook uitgeoefen word deur die kontrakteurs wat namens hom paaië, brõe en driewe aanlë, herstel en in stand hou: Met dien verstande dat waar so 'n kontrakteur skade veroorsaak, vergoeding daarvoor ingevolge hierdie Ordonnansie van die Administrateur verhaal kan word, en dat die Administrateur op sy beurt skadeloosstelling van die kontrakteur kan eis.

24. (1) Andersluidende bepalings in hierdie Ordonnansie ten spyte, kan die Hoofpadingenieur of 'n blanke werknemer van die Afdeling Paaië enige waarskuwingstekens aanbring op enige publieke pad of paddeel solank die aanleg daarvan of ander noodsaaklike werk in verband daarmee duur, en elkeen wat dan so 'n publieke pad gebruik, het geen aanspraak op skadevergoeding weens 'n ongeluk of letsel nie, maar is aanspreeklik vir skade of letsel wat hy moontlik aan die Afdeling Paaië se personeel of toerusting veroorsaak.

(2) Elkeen wat 'n publieke pad gebruik solank dit luidens 'n waarskuwingsteken gesluit is, of wat die bevel op 'n waarskuwingsteken verontagsaam, of wat 'n amptelike kennisgewing, waarskuwing of versperring uitwis, beskuldig, verwyder of verplaas, is skuldig aan 'n oortreding.

PONTE.

25. Die Administrateur kan —

- (a) pontdienste oor riviere instel, en anker- en aanlegplekke as ook die nodige opritte sowel buite as binne die padgrense aanlë;
- (b) 'n ponttarief vorder vir die vervoer van reisigers, rytuie en vee, en kan die tarief van tyd tot tyd vaststel: Met dien verstande dat daar geen tarief gevorder word wanneer die vervoer in Administrasiediens geskied nie;
- (c) kontrakte aangaan vir die aanleg en instandhouding, die huur en die verhuur van pons op tariefvoorwaardes wat hy goed vind;
- (d) met die Administrasies van naburige gebiede saamwerk ter instelling van pontdienste oor riviere aan die Gebiedsgrense, en kan ooreenkomste met sodanige Administrasies sluit betreffende die beheer, bestuur en instandhouding van sodanige dienste.

DIE OPENING, SLUITING EN VERLEGGING VAN PUBLIEKE PAAIE.

26. (1) Wanneer—

- (a) minstens twaalf belanghebbende volwasse blanke inwoners van 'n Padraadsgebied die aanleg van 'n nuwe publieke pad, of die omsetting van 'n pad in 'n publieke pad, of die sluiting of verlegging van 'n publieke pad, of die statusverandering van 'n publieke pad binne die raad se gebied skriftelik aan die raad voorstel; of
- (b) die eienaar, huurder of bewoner van 'n plaas waaroor daar 'n publieke pad loop, skriftelik by die raad voorstel dat daardie pad gesluit of verlë moet word; of
- (c) die raad self voorstel dat 'n nuwe publieke pad aangeleg moet word, of dat 'n pad tot publieke pad omgeskep moet word, of dat enige publieke pad behalwe 'n hoof- of grootpad gesluit of verlë moet word, of dat so 'n pad se status verander moet word —

the chairman shall, if it appears necessary, conduct an investigation, or instruct another member of the board or the Roads Branch to do so, and make a report or have a report made upon that investigation, and provide the Roads Engineer with the original proposal, the report, and the board's decision upon it, together with a diagram of the locality concerned and such recommendations as the board may wish to make.

(2) If the board and the Chief Roads Engineer support the proposal, it shall be advertised as sub-section (4) hereof provides, but if either the board, or the Chief Roads Engineer, or both reject the proposal, the matter shall be submitted to the Administrator for decision.

(3) If the Administrator approves the proposal, such proposal may be advertised as sub-section (4) hereof provides, but if the Administrator rejects such proposal, the author of such proposal shall be notified accordingly, whereupon he may request that the proposal be advertised in any case, provided that he undertakes to pay the costs of advertising and of an enquiry in terms of sub-section (6) hereof should the proposal be rejected by the final decision.

(4) If it is decided in terms of sub-section (2) or (3) hereof that the proposal be advertised, or if the Chief Roads Engineer proposes that a new public road be constructed, or that any public road be closed or that the status of such a road be altered, a notice of such proposal shall be advertised in the *Official Gazette* and in one or more newspapers circulating in the area, and the chairman of the board shall display a copy of such notice in both official languages at his office.

Such notice shall call upon all interested persons to address any objections they may have to the proposal within two months of the date of the notice, at the latest, in writing to the officer mentioned in that notice.

(5) After the expiry of the two months the board concerned shall transmit (a) any additional proposals, (b) all the objections received, (c) an indication of whether the board favours a commission of enquiry or not, and (d) in any case, the names of three proposed members of such commission from its area as well as the name of one alternative member, to the Chief Roads Engineer, who shall in turn submit all such information, with his comments, to the Administrator.

(6) The Administrator may approve or disapprove such proposal, or make such other order in the circumstances as he may deem fit, or appoint the commission as recommended or appoint any other commission consisting of three members to enquire into the matter and report to him.

(7) Such commission shall investigate the proposal and any objections thereto, and if necessary inspect the locality concerned and take evidence, and shall thereupon with the least possible delay transmit to the Administrator their report thereon, who may make such order in connection therewith as he deems fit.

(8) The members of the commission shall receive such fees as may be laid down by regulation, and the costs of such commission shall be paid for by the Administration out of the Territory's revenue, but on the conclusion of the enquiry the Administrator may order that such costs or portion thereof shall be paid by the interested persons in such proportion as he may deem equitable, and on such order having been made the amount so payable may be recovered in any court of competent jurisdiction.

TRAFFIC OBSTRUCTIONS ON PUBLIC ROADS:

27. (1) Unless this Ordinance or any other law authorise it, no person shall—

- (a) encroach on any public road by constructing or erecting any building, structure, fence, furrow, channel, ditch, pipeline, wire, cable or other obstacle on, over or under such public road, or by wilfully or negligently causing water to run over it;

moet die voorsitter waar dit nodig blyk, 'n ondersoek instel of opdra aan 'n ander raadslid of aan die Afdeling Paaie, en dan 'n verslag daaroor uitbring of gelas, en vervolgens die oorspronklike voorstel, die verslag en die raadsbesluit daaroor, saam met 'n sketskaart van die betrokke strek en moontlike raadsaanbevelings, aan die Hoofpadingenieur besorg.

(2) Ondersteun sowel die raad as die Hoofpadingenieur die voorstel, dan word dit ooreenkomstig sub-artikel (4) hiervan geadverteer, maar keur ðf die raad ðf die Hoofpadingenieur ðf albei dit af, dan moet die saak ter beslissing aan die Administrateur voorgelê word.

(3) Keur die Administrateur die voorstel goed, dan kan die voorstel ooreenkomstig sub-artikel (4) hiervan geadverteer word, maar keur die Administrateur dit af, word die voorsteller dienoreenkomstig verwittig, en kan hy versoek dat die voorstel tog geadverteer moet word, mits hy hom verbind om die advertensiekoste, en die koste van 'n ondersoek ingevolge sub-artikel (6) hiervan, te betaal as die uiteindlike beslissing die voorstel verwerp.

(4) Word daar ingevolge sub-artikel (2) of (3) hiervan beslis dat die voorstel geadverteer moet word, of as die Hoofpadingenieur voorstel dat 'n nuwe publieke pad aangelê moet word, of dat enige publieke pad gesluit moet word, of dat so 'n pad se status verander moet word, moet 'n kennisgewing van die voorstel verskyn in die *Offisiële Koerant* as ook in een of meer ander koerante wat in die gebied omloop, en moet die raadsvoorsitter 'n afskrif van die advertensie in beide amptelike tale by sy kantoor opplak.

So 'n kennisgewing moet alle belanghebbendes versoek om hul besware teen die voorstel binne hoogstens twee maande vanaf die datum van die kennisgewing op skrif te rig aan die beampete wat die kennisgewing noem.

(5) Na afloop van die twee maande moet die betrokke raad (a) enige bykomende aanbevelings, (b) al die ontvangte besware, (c) 'n aanduiding of die raad 'n kommissie van ondersoek voorsaan of nie, en (d) in elk geval, die name van drie moontlike kommissielede uit sy gebied, met een alternatiewe naam, aan die Hoofpadingenieur besorg, wat dit dan met sy kommentaar aan die Administrateur voorlê.

(6) Die Administrateur kan die voorstel goedkeur of afkeur, of na goeddunke 'n bevel dienaangaande verstrek, of hy kan die aanbevole kommissie of 'n ander kommissie van drie lede aanstel om op die saak in te gaan, en om daaroor aan hom verslag te doen.

(7) So 'n kommissie moet ingaan op die voorstel en die besware daarteen, moet desnoods die betrokke plek besoek en getuies afneem, en moet so gou doenlik sy verslag aan die Administrateur besorg, wat na goeddunke 'n bevel dienaangaande kan verstrek.

(8) Die kommissielede kry gelde volgens regulasie, en die Administrasie bestry die kommissiekoste uit Gebieds-inkomst, maar na die ondersoek kan die Administrateur beveel dat die belanghebbendes die koste deels of geheel moet vergoed volgens 'n verhouding wat hy na billikvnde bepaal, en nadat sodanige bevel geskied het, kan die aldus opeisbare bedrag in enige regsbevoegde hof verhaal word.

VERKEERSBELEMNERING OP PUBLIEKE PAAIE.

27. (1) Tensy hierdie Ordonnansie of 'n ander wet dit veroorloof, mag niemand —

- (a) op 'n publieke pad inbreuk maak deur 'n gebou of bouwerk, omheining, vore, kanaal, sloot, pylpleidings, drade, kables of ander hindernisse daarop, daaroor of daaronder op te rig of aan te lê nie, nóg deur opsetlik of nalatig water daaroor te laat loop nie;

- (b) put or leave any obstruction which could in any way hinder traffic, or any rubbish, debris, heaps or ashes, earthenware, glass, tins, nails, pieces of metal, material or wood, planks, tree stumps, boulders or stones on any public road;
- (c) leave any vehicle or part thereof on a public road;
- (d) interfere in any way with the roadway of any public road, or with any cuttings, banks or drains of public roads.

(2) Any person who contravenes the provisions of this section shall be guilty of an offence.

28. The Administrator may authorise, in writing and upon such conditions as he may prescribe, an act prohibited under the preceding section if he is satisfied that such an act will not be prejudicial to the public interest.

29. (1) Without the Administrator's written permission, no person shall—

- (a) lay any railway, tramway, trolley or cocopan lines or tracks across any public road; or
- (b) construct any bridge across, or any subway or culvert under a public road; or
- (c) carry any electric or other wires across, or lay any cables over or under, any public road or outspan.

(2) Any person who contravenes the provisions of this section shall be guilty of an offence.

(3) The Administrator is hereby authorised to have anything which has been constructed in contravention of sub-section (1) hereof, removed without notice, and to recover the costs of removal from the offender.

(4) For permission granted in terms of this section the Administrator may charge an annual fee at such rate as he may decide in each case.

30. (1) Save as is provided in any law governing the erection of warning signs on public roads, no person shall erect or install on, or across, any public road any framework, scaffolding, board or other device on which any advertisement may be displayed.

(2) Any person contravening the provisions of this section shall be guilty of an offence.

(3) The Administrator is hereby authorised to remove and destroy, without notice, any advertising device erected or installed in contravention of sub-section (1) hereof, and to recover from the offender the expense so incurred.

CHAPTER IV.

TRUNK AND MAIN ROADS IN AREAS UNDER LOCAL AUTHORITIES.

31. In this Chapter a trunk or main road shall be a road or portion of a road within the area of a local authority, being an extension of a trunk or main road (as defined in section two) beyond the boundaries of such area, and shall include any bridges and drifts serving such trunk or main road.

32. The Administrator may, after consultation with the local authority concerned, proclaim, deviate or de-proclaim any trunk or main road through or within the area under such local authority: Provided that no such proclamation shall exempt any local authority from any responsibility for the construction, maintenance and control of such road.

33. When a road within the area of a local authority has been proclaimed a trunk or main road under the provisions of section thirty-two, and has been constructed and maintained at the cost of such local authority to the satisfaction of the Administrator, the Administrator may, at his discretion, grant such local authority a subsidy, payable out of the Roads Fund, for the maintenance of such road upon such terms and conditions as he may determine.

- (b) versperrings wat die verkeer enigsnis belemmer, ver-hinder of in gevaar stel, vuilnis, afval, ashoep, erdewerk, glaskerwe, blikke, spykers, stukke metaal, materiaal, hout, planks, stompe, rotsblokke of klippe op 'n publieke pad aanbring of laat lê nie;
- (c) 'n voertuig of voertuigdeel op 'n publieke pad laat nie;
- (d) hom enigsnis met die ryvlak van publieke paai, of die uitgrawings, grondwalke of riole van publieke paai bemoei nie.

(2) Elkeen wat die bepalings van hierdie artikel verontagsaam, is skuldig aan 'n oortreding.

28. By oortuiging dat dit geen openbare belang sal skend nie, kan die Administrateur 'n daad wat die voorafgaande artikel verbied, skriftelik magtig op voorwaardes wat hy na goeëdunke stel.

29. Sonder die Administrateur se skriftelike vergunning mag niemand —

- (a) 'n trein-, trem-, trolle- of koekepanspoor of -baan op 'n publieke pad aanlê nie;
- (b) 'n brug oor, of 'n duikweg of deurlaat onder, 'n publieke pad bou nie;
- (c) elektriese of ander drade oor, of kabels oor of onder 'n publieke pad of uitspanplek aanlê nie.

(2) Elkeen wat die bepalings van hierdie artikel verontagsaam, is skuldig aan 'n oortreding.

(3) Die Administrateur word hierby gemagtig om enigsnis wat strydig met sub-artikel (1) hiervan aangebring is, sonder kennisgewing te laat verwyder, en om die koste daaraan verbonde van die oortreder te verhaal.

(4) Vir elke vergunning wat hy ingevolge hierdie artikel toestaan, kan die Administrateur 'n jaargeld aanslaan wat hy in elke geval bepaal.

30. (1) Behoudens die wetsbepalings op die oprigting van waarskuwingstekens op publieke paai mag niemand enige raamwerk, stellasië, plaat of ander toestel waarop 'n advertensie aangebring kan word, op of oor 'n publieke pad oprig nie.

(2) Elkeen wat die bepalings van hierdie artikel verontagsaam, is skuldig aan 'n oortreding.

(3) Die Administrateur word hierby gemagtig om enige advertensie-toestel wat strydig met sub-artikel (1) hiervan aangebring is, sonder kennisgewing te laat verwyder en te vernietig, en om die koste daaraan verbonde van die oortreder te verhaal.

HOOFSTUK IV.

HOOF- EN GROOTPAAI IN PLAASLIKE BESTUURS- GEBIEDE.

31. In hierdie hoofstuk is 'n hoof- of grootpad 'n pad of paddeel binne 'n plaaslike bestuursgebied wat 'n verlenging is van 'n hoof- of grootpad (soos bepaal by artikel twee) buite die grense van so 'n plaaslike bestuursgebied, en omvat dit brúe en driewe waaroor so 'n hoof- of grootpad loop.

32. Na beraadslaging met die betrokke plaaslike bestuur kan die Administrateur 'n hoof- of grootpad deur of binne so 'n plaaslike bestuur se gebied proklameer, ver-lê of deproklameer: Met dien verstande dat geen sodanige proklamering 'n plaaslike bestuur onthef van enige verpligting ten opsigte van die aanleg, instandhouding en be-heer van sodanige pad nie.

33. Wanneer 'n pad binne 'n plaaslike bestuursgebied ingevolge artikel twee-en-dertig tot hoof- of grootpad ge-proklameer is, en ten genoëve van die Administrateur op koste van die plaaslike bestuur aangelê en in stand gehou is, kan die Administrateur na goeëdunke 'n subsidie, betaal-baar uit die Padfonds, aan die plaaslike bestuur toestaan vir die instandhouding van sodanige pad op 'n groidslag en voorwaardes wat hy bepaal.

CHAPTER V. THE ROADS FUND.

34. (1) The special fund established under section forty-one of Ordinance 7 of 1937, called the Roads Fund, shall be retained and used for the construction, maintenance, repair and control of public roads and outspans, for the purchase and maintenance of tools and equipment and for the accommodation of the field staff of the Roads Branch, as well as for the payment of subsidies to local authorities. On the written authority of the Administrator moneys may be paid out of such Roads Fund in furtherance of the purposes of this Ordinance.

(2) Revenue derived from wheel tax, motor licence duties, taxes on the sale of petrol and the annual contributions of the Department of Railways and Harbours of the Union of South Africa, shall after due appropriation from the Territory Revenue Fund be paid into the Roads Fund.

(3) The Legislative Assembly for the Territory may further appropriate additional moneys from the Territory Revenue Fund or vote new amounts to the Roads Fund.

(4) If at the end of any financial year the Roads Fund shows a credit balance, such balance shall not revert to the general revenue, but shall remain in the Roads Fund.

CHAPTER VI. OUTSPANS.

35. Every area of land at least two thousand hectares in extent which is situated outside any area under the jurisdiction of a local authority, and which is acknowledged to be a farm by the Surveyor-General shall upon the commencement of this Ordinance be subject to a servitude of outspan in favour of the public. Such servitude shall remain attached to every part of such area of land, notwithstanding that after the commencement of this Ordinance such area of land be subdivided into portions of which one or more may be less than two thousand hectares in extent: Provided that if an owner, lessee or occupier of a farm fences in any public road along its whole length over such farm in accordance with the provisions of section four as to its width, then such owner, lessee or occupier shall not have the right to allow grazing on such fenced-off public road but shall be exempted from a servitude of outspan on such farm.

36. (1) The Administrator shall determine the number and size of outspans for every farm, and he shall in each case take the comfort of travellers and the size of the farm into account: Provided that—

- (a) the total size of the outspan shall not exceed one hundredth of the area of the farm, but shall in any case be at least thirty hectares in extent;
- (b) the distance between two outspans shall as far as possible be not more than twelve and a half miles.

(2) The Administrator may at any time amend his decision as to the number or the size of outspans on any farm.

37. (1) Subject to the provisions of sub-section (4) hereof, the Administrator may define and beacon-off the outspans which he has approved for every farm across which a public road runs, with proper regard to the interests of the owner and of travellers, and to the availability of water supplies and other requirements.

(2) Every outspan defined and beaconed-off in terms of any laws hereby repealed, shall be deemed to have been defined and beaconed-off in terms of this Ordinance.

(3) Subject to the provisions of sub-section (4) the Administrator may at any time alter the locality of an outspan on a farm and define and beacon-off a new outspan on that farm, or cancel any outspan.

HOOFSTUK V. DIE PADFONDS.

34. (1) Die spesiale fonds gestig by artikel een-en-veertig van Ordonnansie 7 van 1937, hierna die Padfonds genoem, word hierby in stand gehou en word gebruik vir die aanleg, instandhouding, herstel en beheer van publieke paasie en uitspanplekke en vir die aankoop en instandhouding van werktuie en toerusting, en vir die behuising van die Afdeling Paasie se buitepersoneel, as ook vir die betaling van subsidies aan plaaslike besture. Op skriftelike magtiging van die Administrateur kan geld uit die Padfonds betaal word ter bevordering van die doeleindes van hierdie Ordonnansie.

(2) Inkomstes uit wielbelasting, motorlisensieregte, belastinge op petrolverkoopings, en die jaarlikse bydraes van die Unie van Suid-Afrika se Departement Spoorweë en Havens, moet na behoorlike aanwending uit die Gebieds-inkomstefonds in die Padfonds gestort word.

(3) Voorts kan die Wetgewende Vergadering van die Gebied verdere gelde uit die Gebiedsinkomstefonds by die Padfonds aanwend, of opnuut gelde daarvoor bewillig.

(4) Het die Padfonds by die sluiting van 'n boekjaar 'n batige saldo, dan val dit nie aan algemene inkomste terug nie, maar bly dit in die Padfonds.

HOOFSTUK VI. UITSPANPLEKKE.

35. Elke stuk grond minstens twee duisend hektaar groot en buite 'n plaaslike bestuursgebied geleë wat by die inwerkingtrede van hierdie Ordonnansie deur die Landmeter-generaal as plaas erken word, word hierby belas met 'n uitspanwituut ten gunste van die publiek. Hierdie wituut bly verbonde aan elke deel van sodanige stuk grond, selfs al word die grond na die inwerkingtrede van hierdie Ordonnansie onderverdeel in stukke waarvan een of meer kleiner as tweeduusend hektaar is: Met diesa verstaude dat waar 'n eienaar, huurder of bewoner van 'n plaas 'n publieke pad oor sy hele lengte oor sodanige plaas afkamp, waarvan die breedte ooreenkom met die by artikel vier bepaal, sal sodanige eienaar, huurder of bewoner nie die reg hê om die aldus afgekampde publieke pad te laat beweë nie maar sal dan vrygestel word van 'n uitspanwituut op sodanige plaas.

36. (1) Met inagning van die grootte van die betrokke plaas en die gerief van reisigers, bepaal die Administrateur die grootte van elke uitspanplek, en die getal uitspanplekke, per plaas: Met dien verstande dat —

- (a) die algehele uitspanruimte hoogstens een honderdste van die plaas beslaan, mits die uitspanplek egter minstens dertig hektaar groot is,
- (b) twee uitspanplekke sower moontlik hoogstens twaalf en 'n half myl van mekaar af lê.

(2) Die Administrateur kan te eniger tyd sy beslissing oor die grootte en die getal uitspanplekke per plaas wysig.

37. (1) Behoudens die bepalings van sub-artikel (4) hiervan kan die Administrateur die uitspanplekke wat hy goedgekeur het vir elke plaas waaroor daar 'n publieke pad loop, bepaal en afbaken met behoorlike inagning van die belange van die eienaar en van reisigers, en van die beskikbaarheid van water en ander benodigdhede.

(2) Elke uitspanplek wat bepaal en afgebaken is ingevolge 'n wet wat by hierdie Ordonnansie herroep word, word gehou vir bepaal en afgebaken ingevolge hierdie Ordonnansie.

(3) Behoudens die bepalings van sub-artikel (4) kan die Administrateur te eniger tyd die ligging van 'n uitspanplek op 'n plaas verskuif, en 'n nuwe uitspanplek op daardie plaas bepaal en afbaken, of kan hy 'n uitspanplek afskaf.

(4) Whenever the Administrator has defined the locality of an outspan on any farm in terms of sub-section (1) or (3) hereof, he shall, before beaconing-off the outspan, give notice thereof to the owner of the farm. If the owner is dissatisfied with such proposed beaconing-off, he may, within fourteen days after such notice to him, inform the Administrator by letter that he wishes to have the matter settled by arbitration in terms of section *seventy-three*, but without prejudice to the powers of the Administrator under sub-section (3) hereof.

(5) The arbitrators or umpire shall have the power to award to either party concerned in the arbitration, the whole amount or any portion of the costs incurred by such party in connection with such arbitration, and to claim from either party concerned in the arbitration, or from both parties, such proportionate part of the costs incurred by the arbitrators or umpires as may be determined. All costs and expenditure of, or in connection with, such arbitration shall be taxed by the clerk of the magistrate's court for the district in which such farm is situated.

38. Any person who in any way alters or attempts to alter the locality of an outspan duly beaconed-off in terms of this Ordinance, or shifts any beacons of such outspan, or who allows grazing on a fenced-off public road, shall be guilty of an offence.

39. (1) If an outspan has been defined and beaconed-off, the Administrator shall furnish the Registrar of Deeds with details concerning the locality, form and extent of such outspan, and such other details concerning it as may be prescribed by regulation, and if an outspan is shifted or cancelled, the Administrator shall in like manner furnish details of the shifting or cancellation thereof.

(2) The Registrar of Deeds shall register all beaconed-off outspans, and shall enter the particulars of each outspan in his registers and in the title deeds of the farm concerned.

40. No outspan shall be laid out on ground on which there is any building, and subject to any rights arising out of terms of the mining laws in force in the Territory, no person shall build or plough on, or otherwise interfere with the grazing rights, of any outspan beaconed-off in terms of this Ordinance.

41. Every owner, lessee or occupier of ground shall have the right to fence-off any outspan or outspans on that ground, provided that sufficient access to such outspans is left for the travelling public, and the Administrator shall have the same fencing-off rights in regard to any outspan. No contributions may be claimed towards the costs of any fence erected on an outspan or separating an outspan from the adjoining land, whether such outspan has been established under the provisions of this Ordinance or not.

42. (1) Where an unfenced public road traverses a farm on which no outspan has been beaconed-off or if an outspan servitude under section *thirty-five* no longer exists, a strip of land two hundred and fifty metres wide at most on each side of the road shall be deemed to be a public grazing ground for travelling stock: Provided that no garden or other land which is usually cultivated shall be included in such grazing ground.

(2) The owner, lessee or occupier of such farm may free himself from the obligation to provide such grazing ground by setting aside an accurately specified area, approved by the Administrator, for the grazing of travelling stock.

(3) No person shall ride, drive or graze any animal, whether attached to a vehicle or otherwise, on any farm on which outspans have been established or on which grazing ground for travelling stock has been specified and set aside under the provisions of sub-section (2) hereof, beyond the limits of the outspans or the grazing grounds.

(4) Wanneer die Administrateur ingevolge sub-artikel (1) of (3) hiervan 'n uitspanplek se ligging op 'n plaas bepaal het, stel hy, voor die afbakening, die plaasieenaar daarvan in kennis. Neem die eienaar met die voorgenome afbakening misnoeg, kan hy binne veertien dae na sodanige kennisgewing die Administrateur skriftelik meedeel dat hy die saak ingevolge artikel *drie-en-sewentig* deur arbitrasie wil laat beslis, maar dan sonder afbreuk aan die Administrateur se bevoegdheid kragtens sub-artikel (3) hiervan.

(5) Die arbiters of die eindbesliser het die bevoegdheid om van die een of die ander van die geskilverendes by die arbitrasie die hele bedrag of enige deel van die onkoste wat daardie geskilverendes in verband met die arbitrasie aangegaan het, toe te ken, en om van die een of die ander geskilverende, of van albei, sodanige deel van die onkoste van die arbiters of die eindbesliser soos na verhouding bepaal word, te eis. Al die onkoste en uitgawes van, of in verband met, arbitrasie word getakseer deur die klerk van die magistratshof in die distrik waarin die plaas geleë is.

38. Elkeen wat die ligging van 'n uitspanplek wat behoorlik ingevolge die bepalings van hierdie Ordonnansie afgebaken is, enigszins verskuif of probeer verskuif, of wat sy bakens versit, of wat 'n afgekampte publieke pad laat beweë, is skuldig aan 'n oortreding.

39. (1) Wanneer 'n uitspanplek bepaal en afgebaken is, verstrek die Administrateur aan die Registrateur van Aktes besonderhede oor die ligging, vorm en afmetings van sodanige uitspanplek, en sodanige nadere besonderhede daaronter soos regulasies moontlik voorskryf, en wanneer 'n uitspanplek verskuif of afgeskaf word, verskaf hy dergelike besonderhede oor die verskuiwing of afskaffing daarvan.

(2) Die Registrateur van Aktes moet alle afgebakende uitspanplekke registreer en die besonderhede daarvan in sy registers en op die titelbewyse van die betrokke plaas aanteken.

40. Geen uitspanplek mag aangêel word op grond waarop daar enige gebou staan nie, en behoudens enige regte verkry ingevolge Gebiedsgeldende nynwette, mag niemand op 'n uitspanplek wat ingevolge hierdie Ordonnansie afgebaken is, bou, ploeg of hom andersins met die weigete daarvan bemoei nie.

41. Elke eienaar, huurder of bewoner van grond het die reg om enige uitspanplek op sy grond te omhein, mits daar vir die reisende publiek voldoende toegangsruimte tot die uitspanplek gelat word, en die Administrateur het dieselfde omheiningsreg ten opsigte van enige uitspanplek. Geen bydraes kan geëis word ten opsigte van die koste van die omheining wat op 'n uitspanplek aangebring word of wat 'n uitspanplek van omliggende grond skei nie, onverskillig of sodanige uitspanplek ingevolge die bepalings van hierdie Ordonnansie aangêel is of nie.

42. (1) Waar 'n onomheinde publieke pad oor 'n plaas gaan waarop daar geen uitspanplek afgebaken is nie, of waarop daar ingevolge artikel *vef-en-derig* geen uitspanplek meer bestaan nie, word daar aan weerskante van so 'n pad 'n strook grond van hoogstens tweehonderden-veftig meter breed as publieke weigond vir trekvee beskou: Met dien verstande dat geen tuin of ander grond wat gewoonlik verbou word, daarby ingesluit word nie.

(2) Die eienaar, huurder of bewoner van so 'n plaas kan hom vrystel van die verpligting om sodanige weigond te verskaf as hy 'n noukeurig omskrewre stuk grond, deur die Administrateur goedgekeur, as weiplek vir trekvee afsonder.

(3) Niemand mag 'n dier, hetsy aan 'n rytuig ingespan of andersins, op 'n plaas waarop daar uitspanplekke aangêel is of waar daar ingevolge sub-artikel (2) hiervan weiplek vir trekvee bepaal en afgesonder is, buite die grense van sodanige uitspan- of weiplek ry, dryf of laat loop nie.

(4) No person shall ride, drive or graze any animal, whether attached to a vehicle or otherwise, on any farm on which such outspans or grazing areas have not been established or specified and set aside, beyond the limits of the strip of land on each side of a public road as defined in sub-section (1).

(5) No person except a licensed butcher or speculator in stock or the owner, lessee or occupier of land in this Territory, or an authorised representative or employee of such butcher, speculator, owner, lessee or occupier may travel or be with stock on any outspan or grazing area established or set aside under this Ordinance, or on any strip of land on each side of a public road as provided in sub-section (1) hereof, unless he is authorised by a permit issued by a magistrate, or in the case of natives, by a magistrate, native commissioner, assistant native commissioner or superintendent of a native reserve. Such permit shall state the number, type and destination of the stock concerned and the period for which it shall be valid. Any person contravening the provisions of this sub-section or the terms of such permit shall be guilty of an offence and liable on conviction to a fine not exceeding twenty-five pounds, or in default of payment to imprisonment with or without hard labour for a period not exceeding three months.

(6) The holder of a permit under sub-section (5) shall, on demand, produce such permit to any owner, lessee or occupier on whose land such outspan, grazing area or strip of land is situated, and on which the said holder is found with his stock.

43. (1) No person may remain on any outspan or grazing area established or set aside under the provisions of this Ordinance for longer than twenty-four consecutive hours, except with the consent of the owner, lessee or occupier of, or other person entitled to the grazing on, the land concerned, unless he may be detained there by accident, floods or other unforeseen circumstances.

(2) No person travelling with any stock may, save as is provided by sub-section (1) hereof, travel with such stock along any public road or over any strip of land on each side of any public road as described in sub-section (1) of section forty-two at a lesser speed than five miles in every twenty-four hours, except with the consent of the owner, lessee or occupier of, or other person entitled to the grazing on, the land concerned, unless he be detained by accident, floods or other unforeseen circumstances.

(3) In calculating any period under this section, Sundays shall be excluded.

(4) Any person who contravenes the provisions of this section shall be guilty of an offence and liable on conviction to a fine not exceeding five pounds, or, in default of payment to imprisonment with or without hard labour for a period not exceeding one month.

44. (1) Every traveller over a public road shall be entitled to graze and water his stock on all outspans and/or grazing areas defined and beaconed-off in terms of this Ordinance, or within the limits of the strip of land on each side of the public road as defined in sub-section (1) of section forty-two.

(2) If any such outspan, grazing area or strip of land has insufficient water, the Administrator may take reasonable measures to provide sufficient water thereon, and until such time any traveller shall be entitled to water his stock at any water supply nearest to such outspan, area or strip of land, provided a sufficient supply be left for the requirements of the owner, lessee or occupier thereof. Any such owner, lessee or occupier who refuses to supply such traveller with water for his stock, or in any way prevents such traveller from using such water supply as aforesaid, shall be guilty of an offence.

(3) Any such owner, lessee or occupier may charge for water so supplied at a rate not exceeding one penny per head of large stock and one shilling for every hundred head of small stock: Provided that no charge shall be made for water supplied from any running stream, or for water supplied to the riding or transport animals of members of the Administration and of the South Africa Police when on duty, nor to animals in the official custody of such members, not exceeding twenty-five in number.

(4) Op 'n plaas waar daar geen uitspan- of weiplek aangêel of bepaal en afgesonder is nie, mag niemand 'n dier, hetsy aan 'n rytuig ingespan of andersins, buitekant die strook grond aan weerskante van 'n publieke pad, soos by sub-artikel (1) bepaal, ry, dryf of laat loop nie.

(5) Niemand behalwe 'n gelisensieerde slagter of vee-spekulateur, of die eienaar, huurder of bewoner van grond in hierdie Gebied, of 'n gemagtigde verteenwoordiger of werknemer van sodanige slagter, spekulateur, eienaar, huurder of bewoner, mag op enige uitspan- of weiplek wat in gevolg hierdie Ordonnansie aangêel of afgesonder is, of op enige strook grond aan weerskante van 'n publieke pad, soos by sub-artikel (1) hiervan bepaal, met vee trek of vertoef nie, buiten met magtiging van 'n permit uitgereik deur 'n magistraat of (in die geval van natuurlike) 'n magistraat, natuurlekkommissaris, assistent-natuurlekkommissaris of superintendent van 'n natuurelleserwe. Sodanige permit moet die getal, aard en bestemming van die betrokke vee aangee, as ook die geldings tyd daarvan. Elkeen wat die bepalings van hierdie sub-artikel, of die voorwaardes van sodanige permit, verontagsaam, is skuldig aan 'n oortreding en is by skuldige bevinding strafbaar met 'n boete van hoogstens vyf-en-twintig pond, of by wanbetaling met gevangenis van hoogstens drie maande met of sonder dwangarbeid.

(6) Die houër van 'n permit ingevolge sub-artikel (5) moet dit op aanvraag toon aan die eienaar, huurder of bewoner van die grond waarop die uitspan- of weiplek of weisfrok geleë is en waarop die genoemde permitthouër hom met sy vee bevind.

43. (1) Niemand mag langer as vier-en-twintig uur aaneen by 'n uitspan- of weiplek wat ingevolge die bepalings van hierdie Ordonnansie aangêel of afgesonder is, vertoef nie, buiten met die toestemming van die eienaar, huurder, bewoner of weireghouër van die betrokke grond tensy hy daar vertrap word weens teenoortreding, oorstromings of ander onvoorsiene omstandighede.

(2) Behoudens die bepalings van sub-artikel (1) hiervan mag niemand met sodanige vee langs die publieke pad of oor die grondstrook aan weerskante daarvan waarvoor sub-artikel (1) van artikel twee-en-veertig voorsiening maak, minder as vyf myl per vier-en-twintig uur af lê nie, buiten met die toestemming van die eienaar, huurder, bewoner of weireghouër van die betrokke grond, tensy hy weens teenoortreding, oorstromings of ander onvoorsiene omstandighede vertrap word.

(3) Waar daar ingevolge hierdie Ordonnansie tydperke gestel word, sluit dit Sondag uit.

(4) Elkeen wat die bepalings van hierdie artikel verontagsaam, is skuldig aan 'n oortreding, en is by skuldige bevinding strafbaar met 'n boete van hoogstens vyf pond, of, by wanbetaling met gevangenis van hoogstens een maand met of sonder dwangarbeid.

44. (1) Elke reisiger op 'n publieke pad mag sy vee laat wei en suip op al die uitspan- en/of weiplekke wat ingevolge hierdie Ordonnansie bepaal en afgekant is, of binne die strook grond aan weerskante van die publieke pad soos by sub-artikel (1) van artikel twee-en-veertig bepaal.

(2) Het so 'n uitspan- of weiplek of strook grond geen voldoende watervoorraad nie, kan die Administrateur redelike stappe doen ter waterverskaffing daarop, en tot tyd en wyl dit gebeur, mag 'n reisiger sy vee aan die naaste water laat suip, mits daar genoeg oorby vir die behoeftes van die eienaar, huurder of bewoner van die betrokke grond. Elke sodanige eienaar, huurder of bewoner wat weier om so 'n reisiger aan water vir sy vee te help, of wat hom enigins belet om die water te gebruik, is skuldig aan 'n oortreding.

(3) So 'n eienaar, huurder of bewoner kan 'n tierf van hoogstens een pennie per stuk grootvee en een sjilling per honderd stuks kleinvee aanslaan: Met dien verstande dat by geen betaling mag eis vir water uit 'n lopende stroom, nóg vir die waterverbruik van ry- of trekkidre van Administrasie- of Suid-Afrikaanse Polisiedienare wat in diens optree nie, nóg vir diere — maar hoogstens vyf-en-twintig — wat onder die ampelike toesig van sodanige dienare veekeer nie.

45. The owner or person in charge of any stallion, whether horse or donkey, over the age of eighteen months, or bull over the age of twelve months, or ram over the age of five months, shall be bound to keep such animal under control on a public outspan or on any grazing area. Any person contravening this section shall be guilty of an offence and on conviction be liable to a fine not exceeding twenty pounds, or, in default of payment, to imprisonment with or without hard labour for a period not exceeding three months, unless he shall prove that it was impossible for him to control such animal. This section shall not apply to the owner, lessee or occupier of the farm on which such outspan or grazing area is situated.

46. Should any animal show symptoms of serious disease or die on a public road, outspan or grazing area, the owner or the person in whose charge the animal is, shall forthwith report such symptoms or death to the owner, lessee or occupier of the farm concerned. If the animal dies the owner or person in charge thereof shall forthwith burn the carcass or bury it to a depth of at least four feet. Any person contravening this section shall be guilty of an offence.

47. Any stock not being the property of the owner, lessee or occupier of the farm, found trespassing on any outspan or grazing area, or on any public road, or on any strip of land on each side of a public road as described in sub-section (1) of section forty-two, on such farm, shall be subject to the provisions of the Trespass of Animals (Rural Areas) Ordinance, 1931 (Ordinance 9 of 1931). For the purposes of this section any stock on such outspan, grazing area, public road or strip of land found in possession of a person who is obliged to take out a permit under the provisions of sub-section (5) of section forty-two, but who has not taken out such permit, shall be deemed to have trespassed on such outspan, grazing area, public road or strip of land; and the stock found in the possession of a person who, contrary to the provisions of section forty-three, remains with such stock on any such outspan or grazing area for a longer period than twenty-four consecutive hours, or who travels with such stock along such public road or over such strip of land at a lesser speed than five miles in twenty-four hours, shall be deemed to have trespassed on such outspan, grazing area, public road or strip of land.

CHAPTER VII. FENCING AND GATES.

48. Subject to the provisions of section twenty-seven of the Fencing Proclamation, 1921 (Proclamation 57 of 1921), and this Ordinance, any owner, lessee or occupier of any ground may erect a fence across any public road passing over such ground, provided that he gives the Administrator three months notice of such intention.

49. (1) The Administrator may by notice in the *Gazette*, and after such enquiry as he may consider desirable, decrease or increase the standard distance of sixty metres between the fences along the public roads, as provided by section four: Provided that this distance shall always be at least thirty metres.

(2) In the absence of a notice under the provisions of sub-section (1), no fence shall be erected nearer than thirty metres from the centre line of the roadway, and in the case of a decreased or increased road width in terms of the notice referred to in sub-section (1), no fence shall be erected nearer than half the proclaimed width from the centre line of the roadway: Provided that the distance between the centre line of the roadway and the fence may, with the knowledge and approval of the Chief Roads Engineer be altered to a minimum distance of eight metres, provided that the total road width between the fences remain as prescribed.

(3) (a) The Administrator may issue a notice requiring the owner of any fence erected after the commencement of this Ordinance in contravention of this section, to remove it within a period to be specified in such notice, and failing compliance with such requirements, the

45. Die eienaar of toesighouer van 'n perde- of donkies ouer as agtien maande, of van 'n bul ouer as twaalf maande, of van 'n ram ouer as vyf maande, moet sodanige dier op 'n publieke uitspan- of weiplek onder beheer hou. Elkeen wat die bepalings van hierdie artikel verontagsaam, is skuldig aan 'n oortreding, en is by skuldighewinding strafbaar met 'n boete van hoogstens vyf-en-twintig pond of, by wanbetaling, met gevangenis van hoogstens drie maande met of sonder dwangarbeid, tensy hy kan bewys dat dit onmoontlik was om die dier te beheer. Hierdie artikel geld nie die eienaar, huurder of bewoner van die plaas waarop die uitspan- of weiplek geleë is nie.

46. Wanneer 'n dier op 'n publieke pad, uitspan- of weiplek tekens van 'n ernstige siekte toon of daar doodgaa, moet die eienaar of toesighouer van die dier sodanige sikkotekens of dood onmiddellik by die betrokke plaaseienaar, -huurder of bewoner aanmeld. As die dier doodgaan, moet die eienaar of toesighouer daarvan die karkas onmiddellik verbrand of minstens vier voet diep begrawe. Elkeen wat die bepalings van hierdie artikel verontagsaam, is skuldig aan 'n oortreding.

47. Uitgesonderd vee van die plaaseienaar, -huurder of -bewoner, is alle vee wat op 'n uitspan- of weiplek of op enige publieke pad of op enige strook grond aan weerskante van 'n publieke pad (soos by sub-artikel (1) van artikel twee-en-veertig bepaal) op so 'n plaas verkeer, onderhewig aan die bepalings van die Ordonnansie betreffende Oortreding van Diere (Plattelandse Gebiede) 1931 (Ordonnansie 9 van 1931). By die toepassing van hierdie artikel word daar aangeneem dat alle vee wat op sodanige uitspan- of weiplek, pad of strook grond verkeer in die besit van iemand wat ingevolge sub-artikel (5) van artikel twee-en-veertig verplig is om 'n permit uit te neem maar wat versuim het om dit te doen, op sodanige uitspan- of weiplek, publieke pad of strook grond oortree, en word daar voorts aangeneem dat alle vee wat in die besit verkeer van iemand wat strydig met die bepalings van artikel drie-en-veertig langer as vier-en-twintig uur aaneen met sodanige vee op sodanige publieke pad by sodanige uitspan- of weiplek vertoef, of wat minder as vyf myl per vier-en-twintig uur met sodanige vee langs sodanige publieke pad of oor sodanige strook grond afleë, op sodanige uitspan- of weiplek, publieke pad of strook grond oortree.

HOOFSTUK VII.

OMHEINING EN HEKKE.

48. Behoudens die bepalings van artikel sewen-en-twintig van die „Omheinings Proklamatie 1921” (Proklamatie 57 van 1921) en van hierdie Ordonnansie, kan enige eienaar, huurder of bewoner van grond 'n heining oprig dwarsoor 'n publieke pad wat oor sodanige grond loop, mits hy die Administrateur drie maande vooruit van sy voorneme in kennis stel.

49. (1) By kennisgewing in die *Offisiële Koerant*, en na 'n ondersoek wat hy moontlik wenslik ag en gelas, kan die Administrateur die standaard-afstand van sestig meter tussen die heinings langs publieke paaie, soos by artikel vier hiervan bepaal, verminder of vermeerder: Met dien verstande dat die afstand steeds minstens dertig meter moet wees.

(2) By afwesigheid van 'n kennisgewing ingevolge die bepalings van sub-artikel (1) mag geen heining nader as 30 meter van die middellyn van die pad se ryvlak af opgerig word nie, en by 'n vermeerderde of verminderde padbreedte soos by kennisgewing ingevolge sub-artikel (1) bepaal, mag geen heining nader as die helfte van die ge-proklameerde breedte van die ryvlak-middellyn af opgerig word nie: Met dien verstande dat die afstand tussen die ryvlak-middellyn en die heining met die wete en toestemming van die Hoofspadingenieur gewysig mag word tot op 'n minimum van agt meter, mits die afgehele padbreedte tussen die heinings die voorgeskrewe maat bly volg.

(3) (a) Die Administrateur kan 'n kennisgewing uitvaardig waarby hy die eienaar van 'n omheining wat na die inwerkingtreding van hierdie Ordonnansie en strydig met die bepalings van hierdie artikel opgerig is, gelas om dit te verwyder binne 'n tydperk wat die kennisgewing aandui, en by versuim om sodanige lasgewing na te kom,

Administrator may remove such fence and may recover from the owner in any court of competent jurisdiction the costs of such removal.

(b) If, prior to the commencement of this Ordinance, any fence shall have been erected contrary to the requirements of this section, the Administrator may remove such fence at public expense and re-erect it in accordance with the provisions of this section: Provided that if the owner of any fence had received notice to remove or shift it prior to the commencement of this Ordinance, the Administrator may remove or shift such fence, and may recover the costs from the owner in any court of competent jurisdiction.

50. (1) The Administrator may erect a motor-gate in any fence across any public road.

(2) Where the traffic over public roads is limited to motor vehicles in terms of section 51z it shall be sufficient to erect a motor-gate in the fence across the public road.

(3) Where no limitation in terms of sub-section (2) is imposed, either a swing-gate only, or a swing-gate and a motor-gate may be erected next to each other in a fence across such road.

51. The Administrator or the owner of the fence shall in no way be held liable for any loss through injury or damage to any person, vehicle or stock caused by the passage or attempted passage of such person, vehicle or stock through or over any motor-gate, by reason of the construction, maintenance or repair of such motor-gate in such fence in accordance with the provisions of this Ordinance: Provided that nothing in this section shall exempt the Administrator from liability for any loss caused by negligence in the construction, maintenance or repair of such motor-gate.

52. (1) Every person who is responsible for the maintenance of any gate constructed across a public road—

- (a) shall fasten in the centre of such gate a plate two feet square painted white, and shall repaint it white whenever necessary; and
- (b) shall erect and maintain within twenty feet on each side of such gate in a convenient position a post with rings and hooks to secure animals while the gate is being opened and closed; and
- (c) shall ensure that the gate be erected in such a position that any vehicle can come to a standstill on either side of such gate; and
- (d) shall ensure that such a gate swings freely over the ground in either direction; and
- (e) shall ensure that no spikes or other projections which in the opinion of the Administrator are dangerous or likely to cause injury to persons or animals or damage to things, are attached to such gate; and
- (f) shall ensure that the gate is of the standard type at least 16 feet in width, and not a "concertina" gate, not a gate of which certain parts can swing away separately, nor any gate which in the opinion of the Administrator is in any way dangerous or likely to cause injury or damage to persons, animals or things.

(2) Any person contravening the provisions of this section shall be guilty of an offence.

53. (1) At every point where a road other than a public road turns off from a public road, the owner of the land concerned shall erect and maintain in accordance with the specifications laid down by the Administrator, a signpost distinctly indicating the destination of the first-mentioned road; and if, after receiving written notice to that effect from the magistrate, the owner fails to comply with this provision within ten days after receipt of such notice, he shall be guilty of an offence.

(2) If an owner of land on which a road, other than a public road, is situated, wishes to close such road or portion thereof which crosses the boundaries of his land, he may do so only after he has given the Chairman of the Roads Board notice of his intention and the Chairman has affixed such notice at the magistrate's office concerned and has published it in one or more newspapers

kan die Administrateur sodanige omheining verwyder en die verwyderingskoste in enige regsbevoegde hof van die eienaar verhaal.

(b) Waar 'n omheining voor die inwerkingtrekking van hierdie Ordonnansie strydig met die bepaling van hierdie artikel opgerig is, kan die Administrateur sodanige omheining op staatskoste verwyder, en dit weer laat oprig so dat dit aan die bepaling van hierdie artikel voldoen: Met dien verstande dat waar die eienaar van enige omheining reeds voor die inwerkingtrekking van hierdie Ordonnansie kennis gekry het dat hy dit moet verwyder of versit, die Administrateur sodanige omheining kan verwyder of versit, en die koste in enige regsbevoegde hof van die eienaar kan verhaal.

50. (1) Die Administrateur kan 'n motorhek in enige heining oor enige publieke pad laat bou.

(2) Wanneer die verkeer van voertuie oor 'n publieke pad ingevolge artikel 51z tot motorvoertuie beperk is, hoef slegs 'n motorhek in die heining oor die publieke pad opgerig te word.

(3) Wanneer daar geen beperking ingevolge sub-artikel (2) opgelê is nie, hoef slegs 'n swaaierhek, of 'n swaaierhek en 'n motorhek langs mekaar in 'n heining oor sodanige publieke pad opgerig te word.

51. Die Administrateur of die eienaar van die heining is geen aanspraklikheid vir enige verlies weens moontlike skade of letsel aan enige persoon, voertuig, of vee wat deur so 'n motorhek gaan of probeer gaan nie: Met dien verstande dat hierdie artikel die Administrateur nie vrystel van aanspraklikheid vir verlies weens nalatigheid by die aanbou, herstel of instandhouding van so 'n motorhek nie.

52. (1) Elkeen wat verantwoordelik is vir die oprigting en instandhouding van 'n hek dwarsoor 'n publieke pad—

- (a) moet aan die middel van sodanige hek 'n plaat — twee voet vierkant en wit geskilder — vasmaak, en die plaat telkens weer wit skilder sodra dit nodig word; en
- (b) moet binne twintig voet aan weerskante van elke hek op 'n geskikte plek 'n paal met ringe of hake waaraan diere tydens die oop- of toemaak van die hek vasgemaak kan word, oprig en in stand hou; en
- (c) moet sorg dat die hek so opgerig word dat voertuie aan albei kante kan stilhou; en
- (d) moet sorg dat so 'n hek na albei kante, en los bo die grond kan swaai; en
- (e) moet sorg dat daar geen penne of ander uitstekende voorwerpe wat na Administrateursmening gevaarlik of skadelik vir mens, dier of ding is, aan so 'n hek vasgemaak is nie; en
- (f) moet sorg dat die hek met 'n standaardtype hek ooreenkom, minstens 16 voet breed is, en nie 'n kon-sertina-hek is nie, nóg 'n hek is waarvan party onderdele afsonderlik kan wegsvaai nie, nóg 'n hek is wat na Administrateursmening enigens gevaarlik of skadelik is vir mens, dier of ding nie.

(2) Elkeen wat die bepaling van hierdie artikel verontagsaam, is skuldig aan 'n oortreding.

53. (1) Oral waar 'n pad, uitgesonderd 'n publieke pad, uit 'n publieke pad wegdraai, moet die eienaar van die betrokke grond ooreenkomstig die Administrateur se spesifikasie 'n padwyser oprig en in stand hou wat die eersgenoemde pad se bestemming duidelik aangee, en as so 'n eienaar tien dae na ontvangs van 'n magistraatskennisgewing te dien effekte nog versium om so 'n padwyser aan te bring, is hy skuldig aan 'n oortreding.

(2) Indien 'n eienaar van grond waarop 'n pad, uitgesonderd 'n publieke pad, gelê is, so 'n pad of 'n gedeelte daarvan wat oor die grense van sy grond loop, wil sluit, kan hy dit slegs doen nadat hy die voorsitter van die Padraad van sy voorneme kennis gegee het en die voorsitter sodanige kennisgewing by die betrokke Magistraatskantoor opgeplaak, en dit in een of meer koerante wat in daardie wyk in omloop is, gepubliseer het: Met

circulating in the area: Provided that the road may not be closed until after the expiry of a period of three months from the date of publication of such notice.

(3) Every owner of land on which any road other than a public road has been closed by the construction of a fence across it or otherwise, shall erect and maintain at any point on such land at which any such road shall turn off from a public road, and in accordance with the specifications laid down by the Administrator, a signpost distinctly indicating the fact that such road has been so closed, and if the owner fails to comply with this provision, after due notice as provided in sub-section (1), he shall be guilty of an offence.

54. It shall not be lawful for any person to lock or otherwise secure any gate across any public road against passage without the consent of the Administrator.

55. The Administrator may order the removal of—

- (a) fences, gates, enclosures or other obstructions across or alongside any public road if constructed contrary to the provisions of this Ordinance or the Fencing Proclamation, 1921 (Proclamation 57 of 1921), or any amendment thereof; or
- (b) any gate which has been erected at a spot on a public road which is, in his opinion, not suitable for a halt;

and if such order is not complied with within a period of three months from the date thereof, the Administrator may cause such fence or gate or other obstruction to be removed at the expense of the owner or person responsible for the erection thereof, who shall further be guilty of an offence.

56. All gates that are necessary in existing fences owing to the deviation of public roads or the making of new public roads, shall be provided or shifted by the Administrator, unless such deviation or new road is made at the request of the owner, lessee or occupier of the farm on which such fence is situated.

CHAPTER VIII.

FURROWS AND WATER COURSES.

57. Any person wishing to lead water over or under a public road shall do so at his own expense after having obtained the approval of the Administrator who may decide on the type of culvert or other conduit which shall be used.

58. No person may without the consent of the Administrator raise the level of the water of any river, stream or spruit at any public road, bridge or drift.

59. (1) The Administrator may in consultation with the owner divert storm water from or under any public road into private property, provided such land is not occupied by buildings, orchards, gardens or other improvements, and the Administrator shall not be liable for any damage caused by means of such diversion. In case it be found necessary to divert such water on to lands under cultivation, other than as aforesaid, and damage be caused thereby, the owner of such land shall be entitled to such compensation as may be agreed upon, or failing agreement, as may be determined by arbitration in the manner hereinafter provided.

(2) The provisions of this section shall not apply to any public road situated within any area under the jurisdiction of a local authority.

CHAPTER IX.

CONTROL OF TRAFFIC.

60. Subject to the provisions of the Motor Vehicle and Wheel Tax Ordinance, 1937 (Ordinance 17 of 1937), as amended, and of this Ordinance, the Administrator may from time to time make regulations on any of the following matters—

- (a) the regulation, safety and control of traffic on public roads including the restriction of the use of any such roads or parts thereof to specified vehicles generally or at fixed times or seasons; and the provision that any specified public road shall be limited in use to traffic moving in any one specified direction; and generally for the better carrying out of the objects of this chapter;

dien verstande dat die pad nie gesluit mag word nie voordat 'n tydperk van drie maande vanaf die datum van publikasie van sodanige kennisgewing verstryk het.

(3) Elke eienaar van grond waarop enige pad uitgesonderd 'n publieke pad, gesluit is, hetsy deur die oprigting van 'n heining daaroor of andersins, moet ooreenkomstig die Administrateur se spesifikasie op die plek waar so 'n pad uit 'n publieke pad wegdraai 'n padwysers oprig en in stand hou wat duidelik aantoon dat so 'n pad aldus gesluit is, en as die eienaar versuim om dit te doen na behoorlike kennisgewing ingevolge sub-artikel (1), is hy skuldig aan 'n oortreding.

54. Sonder Administrateurstoestemming mag niemand 'n hek oor 'n publieke pad teen deurtog sluit of andersins versper nie.

55. Die Administrateur kan die verwydering gelas van—

- (a) omheinings, hekke, kampe of ander versperrings oor of langs 'n publieke pad wat strydig met die bepalinge van hierdie Ordonnansie of die „Omheinings Proklamasie 1921” (Proklamasie 57 van 1921) soos gewysig, aangebring is; of
- (b) enige hek op 'n publieke pad wat syms insiens op 'n ongeskikte stilhouplek ingerig is;

en as sodanige lasgewing nie binne drie maande daarna uitgevoer word nie, kan die Administrateur sodanige hek en omheining, of ander versperring, laat verwyder op koste van die eienaar of oprigter daarvan, wat voorts skuldig is aan 'n oortreding.

56. Die Administrateur verskaf of versit alle hekke wat, weens die verlegging van publieke paasie of die aanleg van nuwes, in bestaande omheinings gemaak moet word, tensy die eienaar, huurder of bewoner van die grond waarop die betrokke omheining geleë is, self om die verlegging of die nuwe pad gevra het.

HOOFSTUK VIII.

VORE EN WATERLOPE.

57. Enigiemand wat water bo-oor of onderdeur 'n publieke pad wil lei, moet dit op eie koste doen en na verkryging van die goedkeuring van die Administrateur, wat kan besluit oor die soort deurlaat of ander geleiding wat gebruik moet word.

58. Niemand mag sonder Administrateurstoestemming die waterpeil van 'n rivier, stroom, of spruit by 'n publieke pad, brug of drif verhoog nie.

59. In oorleg met die eienaar kan die Administrateur stormwater van of onder publieke paasie uit na private grond weglei, mits daar geen geboue, boorde, tuine of ander verbeterings op sodanige grond staan of aangebring is nie, en die Administrateur is nie verantwoordelik vir skade weens sodanige afleiding nie. As dit egter nodig blyk om water af te lei op grond onder bebouing en daar gevolglik skade ontstaan, het die betrokke eienaar aanspraak op skadevergoeding volgens ooreenkoms, of by gebrek daaraan, skadevergoeding deur arbitrasie soos hierna bepaal word.

(2) Die bepalinge van hierdie artikel geld geen publieke paasie binne 'n plaaslike bestuursgebied nie.

HOOFSTUK IX.

BEHEER VAN VERKEER.

60. Behoudens die bepalinge van die Ordonnansie op Motorvoertuie en Wielbelasting 1937 (Ordonnansie 17 van 1937) soos gewysig, en van hierdie Ordonnansie, kan die Administrateur van tyd tot tyd regulasies oor enige van die onderstaande sake afkondig—

- (a) die reëling, veiligheid en beheer van die verkeer op publieke paasie, met inbegrip van die beperking op die gebruik van al sulke paasie of dele daarvan vir bepaalde voertuie oor die algemeen of op vaste tydperke of jaargteye; en die bepaling dat 'n genoemde publieke pad slegs in een aangeduide rigting gebruik mag word; en, oor die algemeen, ter doelmattiger uitvoering van die oogmerke van hierdie hoofstuk;

- (b) the control of heavy vehicular traffic and the prohibition generally or at any particular season of the use of vehicles of any specific kind which may be specially injurious to roads; or the restriction of the use of public roads to any specific kind of vehicle;
- (c) fixing the weight which may be taken over any bridge and the times when, and the speed at which, any vehicle may be allowed to cross such bridge;
- (d) the regulation of the type of wheels and their size and width of tyres, of vehicles traversing the public roads;
- (e) the limitation of the speed of vehicles;
- (f) the provision, erection and maintenance of mile-stones, signposts, road and warning signs;
- (g) the type of apparatus to be used for the braking and scotching of the wheels of vehicles;
- (h) prescribing the manner in which any vehicle or animals may be driven or led over or along a public road or section of a public road;
- (i) detaining any vehicle in order to ascertain whether this Ordinance or the regulations thereunder are being complied with, and for requiring drivers and others to furnish such information as may be required under this Ordinance or the regulations thereunder;
- (j) the indicating of names and addresses of owners on waggons and other vehicles; and
- (k) generally making provision for all matters furthering the due administration of, and the giving of full effect to, the provisions of this Ordinance.

61. It shall not be lawful—

- (a) to lock the wheels of any vehicle when travelling on a public road;
 - (b) to draw or otherwise use any sledge or any attachment which projects beyond the tread of the wheels, on any public road;
 - (c) to make use of metal plates or shoes (skids) on any public road, unless it is imperative for safety on exceptionally steep gradients, and in no case unless the plates or shoes are at least six inches wide;
 - (d) to make use of brakes on vehicles with steel treads when passing over bridges on public roads.
- Any person contravening the provisions of this section shall be guilty of an offence.

62. Whenever any vehicle has to be extricated from any public road, the driver or person in charge thereof shall immediately repair the damage to the road caused thereby to the best of his ability.

Any person contravening the provisions of this section shall be guilty of an offence.

63. (1) All travellers along public roads shall when meeting any vehicle keep to the left of the road except where the road runs along the mountain slopes in which case an animal-drawn vehicle coming down such slopes and passing another shall keep to the inner or mountain side.

(2) Any person contravening any of the provisions of this section shall be guilty of an offence.

64. (1) Any driver or other person in charge of a waggon or other vehicle drawn by oxen or other animals not controlled by reins, shall have a leader for the team attached to that waggon or other vehicle—

- (a) when passing through the streets of any township or village;
- (b) when passing through an area outside that of a local authority, prescribed by the Administrator by notice in the *Gazette*;
- (c) when approaching, passing or being overtaken by any other vehicle: Provided that the driver of the overtaking vehicle shall have given adequate warning of his approach;
- (d) when approaching or passing through a gate or drift, or over or under any bridge or railway crossing.

(2) Any person contravening the provisions of this section shall be guilty of an offence: Provided that, when considering any contravention of paragraph (b) of sub-section (1) hereof, the court shall satisfy itself that the Administrator has caused to be affixed and kept legible in one or more conspicuous places near such area a notice indicating such area to the public.

- (b) die beheer van swaar voertuigverkeer, en die verbod oor die algemeen of in 'n aangeduide jaargety op die gebruik van 'n genoemde soort voertuig wat paaië uitermatig verniel, of die beperking van publieke padgebruik tot 'n genoemde soort voertuig;
- (c) die vasstelling van die gewig wat oor brule vervoer mag word, en die tyd wanneer, en die snelheid waarteen, 'n voertuig daaroor mag gaan;
- (d) die reëling van die wielsoort en -grootte, en die wielbandbreedte, van voertuie wat op publieke paaië loop;
- (e) die beperking van voertuigsnelheid;
- (f) die aanskaffing, oprigting en instandhouding van mylpale, seinpale, padwysers en waarskuwingsstekens; die soort apparaat wat gebruik moet word vir die rem en vasstel van die wiele van voertuie;
- (h) die wyse waarop 'n voertuig of diere op of oor 'n publieke pad of paddeel bestuur, gedryf of geleid moet word;
- (i) die aanhouding van voertuie ter versekering dat hierdie Ordonnansie, en sy regulasies ter uitvoering daarvan, nagekom word, en ter verpligting van bestuurders, drywers en andere om inligting te verstrek wat ingevolge hierdie Ordonnansie of die regulasies van hulle aangevra word;
- (j) die aanduiding van die name en adresse van die eienaars op waens en ander voertuie; en
- (k) oor die algemeen, die reëling van alle ander sake wat die behoorlike toepassing en stipte nakoming van hierdie Ordonnansie bevorder.

61. Dit is verbode —

- (a) om die wiele van 'n voertuig waarmee daar op 'n publieke pad gereis word, vas te set;
- (b) om 'n sleg of ander aanhegsel wat buite die loopvlak van die wiele nitsteek, op publieke paaië te trek of andersins te gebruik;
- (c) om metaalreplate of -skoene op publieke paaië aan te slaan, buiten teen hellings wat so steil is dat die veiligheid dit gebied, en, in iedere geval, om replate of skoene te gebruik wat minder as ses duim breed is;
- (d) om renne van voertuie met staalbande aan te slaan wanneer daar oor brule op publieke paaië gery word.

Elkeen wat strydig met die bepalings van hierdie artikel handel is skuldig aan 'n oortreding.

62. Wanneer 'n vasgevalle voertuig op 'n publieke pad uitgegraaf moet word, moet die drywer of bestuurder onmiddellik die pad so goed moontlik herstel.

Elkeen wat strydig met die bepalings van hierdie artikel handel is skuldig aan 'n oortreding.

63. (1) Alle reisigers op publieke paaië moet links hou wanneer hulle 'n ander voertuig teenkom, buiten waar die pad teen 'n bergheuling loop, en daar moet 'n dalende voertuig wat deur diere getrek word, met die verbygaan aan die binne- of bergkant gehou word.

(2) Elkeen wat strydig met die bepalings van hierdie artikel handel, is skuldig aan 'n oortreding.

64. (1) Die drywer of toesighouer van 'n wa of ander voertuig wat deur osses of ander diere getrek word maar nie met leisels bestuur word nie, moet 'n touleier voor sy span hê wanneer hy —

- (a) deur die strate van 'n dorp of stad ry;
- (b) deur 'n strek buite 'n plaaslike bestuursgebied ry wat die Administrator by kennisgewing in die *Offisiële Koerant* aanwys;
- (c) 'n ander voertuig nader, verbygaan of daardeur ingehaal word: Met dien verstande dat die bestuurder of drywer van die inhalende voertuig voldoende waarskuwing van sy nadering moet gee;
- (d) deur 'n hek of drif of oor of onder deur 'n brug of spoorbaan gaan, of daarby kom.

(2) Elkeen wat die bepalings van hierdie artikel verontagsaam, is skuldig aan 'n oortreding: Met dien verstande dat waar die hof ingaan op 'n moontlike oortreding van paragraaf (b) van sub-artikel (1) hiervan, hy hom moet oortuig dat die Administrator wel 'n aanduiding van die betrokke strek op een of meer treffende plekke daarnaby laat aanbring het, en dat sodanige aanduiding leesbaar gehou word.

CHAPTER X.
GENERAL.

65. The Administrator may from time to time make regulations not inconsistent with this Ordinance on any of the following matters—

- (a) for prescribing the powers, duties and functions of boards constituted under section *nine*, and for determining the amount to be paid to *ex officio* and other members of the board for travelling and other expenses;
- (b) for the control management and working of ponds, and pont tariffs;
- (c) subject to the provisions of the Public Service Act, 1923, as amended, for prescribing the duties and conditions of employment of officials or employees of the Administration engaged in the administration or execution of the provisions of this Ordinance or the regulations thereunder;
- (d) for prescribing the manner in which any notices required by this Ordinance shall be given or served and the nature and duration of such notices, and the manner in which owners of farms desiring the opening, closing or deviation of public roads shall give notice to that effect, and the place and duration of such notices;
- (e) for prescribing the manner in which owners of land shall indicate outspans on their land by means of signboards;
- (f) for protecting from damage and interference any property or works of the Administration, including trees, boreholes, wells and improvements situated in, under or over any public road or outspan;
- (g) for regulating the junctions of private roads with public roads and the control thereof;
- (h) generally, for the better carrying out of the objects of this Ordinance.

66. Whenever it becomes necessary for the safety of the public to deviate or reconstruct any public road owing to the fact that the ground has been undermined subsequent to the construction of the public road, the Administrator shall have the right to instruct the mining company or owner of mining property concerned or other person responsible for such undermining to provide for the reconstruction, repair or renewal of the original road at the expense of such person, and failing compliance with such instructions within a reasonable time, the Administrator shall have the right to undertake the work at the expense of such person as aforesaid.

67. The Administrator shall have the right to plant trees or otherwise generally to improve the areas within a public road and he may delegate such right to the owner concerned. Any person wilfully damaging such trees or improvements shall be guilty of an offence.

68. The Administrator shall not be responsible or liable for the construction or maintenance of bridges or crossings of any description over drains or watercourses made for carrying off flood water or otherwise for the protection of public roads.

69. Notwithstanding the provisions of this Ordinance, all roads, fences and outspans constructed, erected or beaconed-off in accordance with existing laws, shall be deemed to have been lawfully constructed, erected and beaconed-off under this Ordinance.

70. Wherever in this Ordinance any right or powers are given to the Administrator, such rights and powers shall also apply to any person duly authorised by the Administrator or lawfully acting on his behalf.

71. (1) Whenever in the course of the opening, construction or maintenance of any public road or the establishment of a pont service by or on behalf of the Administrator, any direct damage be done to any orchard, garden or plantation or to any crops or cultivated trees, but not otherwise, the owner thereof shall be entitled to compensation as may be agreed upon by the parties, or, failing such agreement, as may be determined by arbitration in terms of section *seventy-three*.

HOOFSTUK X.
ALGEMEEN.

65. Met inagneming van die bepalings van hierdie Ordonnansie kan die Administrateur van tyd tot tyd regulasies afkondig ter reëling of voorskrywing van enige van die volgende sake —

- (a) die bevoegdhe, pligte en werksaamhede van die rade wat by artikel *nege* ingestel word, en die bedrae wat aan raadslede (sowel *ex officio* as gewoon) betaal moet word weens hul reis- of ander onkoste.
- (b) die beheer, bestuur en werking van ponte, en pont-tariewe;
- (c) behoudens die bepalings van die Staatsdienswet 1923, soos gewysig, die pligte en diensvoorwaardes van Administrasieamptenare of werknemers wat belas is met die toepassing of uitvoering van hierdie Ordonnansie of van die regulasies wat hieruit voortvloei;
- (d) die wyse waarop kennisgewings wat ingevolge hierdie Ordonnansie moet geskied, gegee of bestel moet word, en die aard en tydperk van sodanige kennisgewings, as ook die wyse waarop die eienaars van plase wat die opening, sluiting of verlegging van publieke paie verlang, kennisgewing van hul voornemens moet gee, en die plek en tydperk van sodanige kennisgewings;
- (e) die wyse waarop grondcienaars uitspanplekke daarop moet aandui deur middel van kennisgewingsborde;
- (f) die beskerming van Administrasie-eiendom of -werke insluitende bome, boorgate, putte en verbeteringswerke binne, onder of oor publieke paie of uitspanplekke, teen beskadiging of bemoeiing;
- (g) die aansluiting van private en publieke paie en die beheer daarvoor;
- (h) oor die algemeen, om 'n noukeurige uitvoering van die doeleindes van hierdie Ordonnansie te bevorder.

66. Waar die publieke veiligheid die verlegging of vernuwing van 'n publieke pad noodsaak omdat die grond na die aanlegging daarvan ondermyn of ondergrawe is, kan die Administrateur die betrokke mynecienaar, mynmaatskappy of ondergraver gelas om die oorspronklike pad te herbou, te herstel of te vernu teen die koste, en, by versuim om binne 'n redelike tyd aan hierdie lasgewing te voldoen, kan die Administrateur die werk self laat uitvoer, en die koste van die betrokke verlaan.

67. Die Administrateur het die reg om bome te laat plant binne die gebied van 'n publieke pad, of om ander verbeterings daarin aan te laat bring, en kan sodanige reg aan die betrokke eienaar oordra. Elkeen wat sodanige bome of ander verbeteringe opsetlik beskadig, is skuldig aan 'n oortreding.

68. Die Administrateur is nie verantwoordelik vir die aanleg en instandhouding van brde en kruispaie, van water aard ook al, oor riele en waterlope wat vir die afvoer van stormwater of andersins ter beskerming van publieke paie aangebring is nie, nóg is hy aanspreeklik in verband daarmee nie.

69. Die bepalings van hierdie Ordonnansie ten spyte, word alle paie, omheininge en uitspanplekke wat ingevolge bestaande wette aangelê, opgerig of afgebaken is, gehou vir aangelê, opgerig en afgebaken ingevolge hierdie Ordonnansie.

70. Waar daar by hierdie Ordonnansie regte of bevoegdhe aan die Administrateur verleen word, word daardie regte en bevoegdhe ook verleen aan elkeen wat behoorlik deur die Administrateur gemagtig is, of wat regmatig namens hom optree.

71. (1) Wanneer daar by die opening, aanleg of instandhouding van publieke paie, of die instelling van 'n pontdiens deur of namens die Administrateur, enige regstreekse skade aan boorde, tuine, plantasies, gesaaides of gestreekte bome veroorsaak word, maar in geen ander geval nie, is die betrokke eienaar geregtig op skadevergoeding volgens ooreenkoms tussen die partye, of, by gebrek drie-en-sewentig.

(2) Whenever the Administrator has declared in terms of paragraph (c) of sub-section (1) of section five of this Ordinance that a public road shall exist on any land falling within any of the areas referred to in the proviso to the definition of "public road" in section two of this Ordinance, where no road previously existed, or where a road has been closed, and has defined the course of such road, the owner of the land in question shall, notwithstanding the provisions of sub-section (1) of this section, be entitled, in addition to any compensation which may be payable under sub-section (1) of this section, to compensation in respect of land taken up by such road, the amount of such compensation to be determined, in case of dispute, by arbitration as provided for in section seventy-three hereof.

72. Any action against the Administration of South West Africa for damages alleged to have been sustained by reason of the default or neglect of an official or employee of the Administration in connection with the construction, maintenance or state of the roads, motor-gates or bridges under its control and charge shall lie only—

- (a) after written notice of such claim clearly and explicitly stating the cause of action, shall have been served upon the Secretary of South West Africa within a period of forty days after the cause of action arose; and
- (b) within a period of sixty days after the Administration has informed the claimant of its decision.

73. Whenever in this Ordinance it be provided that any dispute or difference shall be settled by arbitration, two arbitrators shall be appointed, one of whom shall be appointed by the Administrator and the other by the owner, and whenever such arbitrators fail to come to an agreement on any matter, or on a question of costs, they shall appoint an umpire, and if they fail to do so, the Administrator shall appoint an umpire, whose decision shall be binding on the parties in question.

74. Any person convicted of an offence against this Ordinance or the regulations framed thereunder, or failing to perform any duty thereby prescribed, shall, if no penalty is specially provided therefor, on conviction be liable to a fine not exceeding fifty pounds, or, in default of payment, to imprisonment with or without hard labour for a period not exceeding six months.

75. All proclamations, notices and regulations issued and framed under the provisions of any law repealed by this Ordinance shall, if not inconsistent with the provisions hereof, remain in force until revoked or amended under the provisions of this Ordinance.

76. No obligation or duty imposed on any landowner under this Ordinance, other than an obligation or duty imposed by Chapter VI, shall, attach to the Administration of South West Africa or the Department of Railways and Harbours of the Union of South Africa.

77. This Ordinance shall be called the Roads and Outspans Ordinance, 1952, and shall come into force on a date to be fixed by the Administrator by proclamation in the Official Gazette.

(2) Wanneer die Administrateur ooreenkomstig paragraaf (c) van sub-artikel (1) van artikel vyf van hierdie Ordonnansie 'n publieke pad proklameer op grond wat in die voorbehoud by die woordebepaling „publieke pad” in artikel twee van hierdie Ordonnansie vermeld word en waarop daar voorheen geen pad was nie of waarop 'n pad gesluit is, en die loop van sodanige publieke pad bepaal het, het die eienaar van die betrokke grond nieëtaande die bepaling van sub-artikel (1) van hierdie artikel die reg op vergoeding vir die grond wat die publieke pad beslaan, buiten en behalwe sy reg op skadevergoeding ingevolge die bepaling van sub-artikel (1) hiervan, en by onenigheid oor die vergoedingsbedrag moet dit by arbitrasie ingevolge artikel drie-en-seventig hiervan vasgestel word.

72. Geen regsgeeding om skadevergoeding teen die Administrasie van Suidwes-Afrika weens die beweerde versuim of nalatigheid van 'n Administrasie-amptenaar of werknemer betreffende die aanleg, instandhouding of toestand van die paaie, motorhekke of brúe onder die beheer en toetsig van die Administrasie kan ingestel word nie tensy:—

- (a) skriftelike kennisgewing van die eis, met duidelike en uitdruklike vermelding van die eisvoorsak binne veertig dae na die ontstaan daarvan, aan die Sekretaris van Suidwes-Afrika, bestel word, en
- (b) so 'n proses binne sestig dae nadat die Administrasie die eiser van sy besluit verwittig het, ingestel word.

73. Waar hierdie Ordonnansie bepaal dat geskille by wyse van arbitrasie geskik moet word, moet daar twee arbiters aangestel word, een deur die Administrateur en die ander deur die eienaar, en waar die arbiters nie oor die geskilpunt of die geskilkoste ooreen kan kom nie, moet hulle saam 'n eindbesliser benoem, en as hulle versuim, benoem die Administrateur 'n eindbesliser wie se beslissing afdoende is en die betrokkenes verbind.

74. Elkeen wat skuldig is aan 'n oortreding van die bepaling van hierdie Ordonnansie of van die regulasies wat hieruit voortvloei, of wat versuim om 'n verpligting na te kom wat hierdie Ordonnansie of die regulasies hom opleë, is, wanneer daar geen spesifieke straf vir die oortreding bepaal is nie, by veroordeling strafbaar met 'n boete van hoogstens vyftig pond, en, by wanbetaling, met gevangenis van hoogstens ses maande met of sonder dwangarbeid.

75. Alle proklamasies, kennisgewings en regulasies wat afgekondig is ingevolge die bepaling van enige wet wat by hierdie Ordonnansie herroep word, bly, solank hulle met die bepaling hiervan bestaanbaar is, van krag totdat hulle ingevolge die bepaling van hierdie Ordonnansie herroep of gewysig word.

76. Uitgesonderd die bepaling van hoofstuk VI, geld geen verpligting of plig wat by hierdie Ordonnansie aan 'n grondeienaar opgelê word, die Administrasie van Suidwes-Afrika, nóg die Departement Spoorweë en Hawens van die Unie van Suid-Afrika nie.

77. Hierdie Ordonnansie heet die Ordonnansie op Paaie en Uitspanplekke 1952 en tree in werking op 'n datum wat die Administrateur by proklamasie in die *Offisiële Koerant* afkondig.

SCHEDULE.
LAWS REPEALED.
(SECTION ONE.)

No. and year of commencement.	Title or Subject of Law.
Ordinance 13 of 1931	Motor By-Passes.
Ordinance 7 of 1937	Roads and Outspans Ordinance.
Ordinance 8 of 1942	Roads and Outspans Amendment Ordinance.
Ordinance 7 of 1945	Roads and Outspans Amendment Ordinance.
Ordinance 6 of 1952	Roads and Outspans Amendment Ordinance.
Ordinance 8 of 1952	Roads and Outspans Further Amendment Ordinance.

BYLAAG.
HERROEPE WETTE.
(ARTIKEL EEN.)

Nummer en jaar van aanname.	Titel of onderwerp van Wet.
Ordonnansie 13 van 1931	Motordeurgange
Ordonnansie 7 van 1937	Ordonnansie op Paaie en Uitspanplekke
Ordonnansie 8 van 1942	Wysigingsordonnansie op Paaie en Uitspanplekke
Ordonnansie 7 van 1945	Wysigingsordonnansie op Paaie en Uitspanplekke
Ordonnansie 6 van 1952	Wysigingsordonnansie op Paaie en Uitspanplekke
Ordonnansie 8 van 1952	Verdere Wysigingsordonnansie op Paaie en Uitspanplekke.

No. 47 of 1952.]

ORDINANCE

To amend the law relating to the sale of intoxicating liquor.

(Assented to 24th November, 1952.)
(English text signed by the Administrator.)

BE IT ORDAINED by the Legislative Assembly for the Territory of South West Africa, as follows:—

1. Section *three* of the Liquor Licensing Proclamation, 1920 (Proclamation 6 of 1920), as amended from time to time, (hereinafter called the principal Proclamation), is hereby amended by the addition of the following definition:—

“sell” in addition to its ordinary meaning includes keeping, exposing, or delivering for sale, or authorising, directing or allowing sale, or bartering or exchanging, or possessing for purposes of sale.

2. Section *four* of the principal Proclamation is hereby amended by the insertion after the word “any” where it occurs for the second time, of the words “conditions or”.

3. Section *six* of the Principal Proclamation is hereby amended by the addition of the following item:—

“9. Special brewers wholesale depot licence.”

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

(a) by the deletion in sub-paragraph (a) of paragraph (2) of the words “or Christmas Day” and the substitution thereof of the words “or Ascension Day, or Day of the Covenant or Christmas Day”;

(b) by the deletion in sub-paragraph (c) of paragraph (3) of the words “or Christmas Day” and the substitution thereof of the words “or Ascension Day, or Day of the Covenant or Christmas Day”;

(c) by the insertion in paragraph (4) after the words “Good Friday” of the words “or Ascension Day or Day of the Covenant”;

(d) by the deletion in paragraph (6) of the words “or Christmas Day” and the substitution thereof of the words “or Ascension Day, or Day of the Covenant, or Christmas Day”;

(e) by the addition of the following paragraphs:—

“(7) A special brewers wholesale depot licence shall authorise any brewer holding a Special Brewers Wholesale Licence under the “Brewers and Distillers Licences Duty Proclamation, 1924”, as amended, to sell or supply the product of his manufacture in quantities of not less than five gallons if in cask or two gallons if in bottle to the general public from any depot, but not for consumption on the premises. Such depot shall not be managed or controlled by any holder of a retail or light liquor licence under this Proclamation, or any amendment thereof, and such depot shall not be situated on any premises carrying a retail or light liquor licence under the said Proclamation. Subject to section *twenty-nine* of this Ordinance the provisions of sub-paragraphs (b), (c) and (d) of paragraph (3) of this section in regard to bottle licences shall *mutatis mutandis* apply to special brewers wholesale depot licences, and the further provisions

No. 47 van 1952.]

ORDONNANSIE

Ter wysiging van die wet op die verkoop van sterk drank.

(Goedgekeur 24 November 1952.)
(Engelse teks deur die Administrateur geteken.)

Die Wetgewende Vergadering van die Gebied Suidwes-Afrika VERORDEN:—

1. Artikel *drie* van die „Drank Licentie Proclamatie, 1920” (Proklamasie 6 van 1920), soos van tyd tot tyd gewysig, (hierna genoem „die hoofproklamasie”), word hierby gewysig deur die onderstaande woordbepaling by te voeg:—

„Verkoop” benewens sy gewone betekenis ook aanhou, uitstal of aflewering ter verkoop, of magtiging, opdrag of verlof tot verkoop, of ruil of omruil, of besit ter verkoop.

2. Artikel *vier* van die hoofproklamasie word hierby gewysig deur na die woord „voorrechten” in die vierde reël daarvan die woorde „of voorwaarden” in te voeg.

3. Artikel *ses* van die hoofproklamasie word hierby gewysig deur die onderstaande hoof by te voeg:—

„9. Spesiale groothandel-dépôt-lisensie vir bierbrouers.”

4. Artikel *sewe* van die Hoofproklamasie word hierby gewysig —

(a) deur die woord „Kerstmisdag” in subparagraaf (a) van paragraaf (2) te skrap, en te vervang met die woorde „Memelvaartdag, of Gelofte dag, of Kersdag”;

(b) deur die woord „Kerstmisdag” in subparagraaf (c) van paragraaf (3) te skrap, en te vervang met die woorde „Memelvaartdag, of Gelofte dag, of Kersdag”;

(c) deur die woorde „of Memelvaartdag, of Gelofte dag” in te voeg na die woorde „Goed Vrydag” in paragraaf (4);

(d) deur die woord „Kersdag” in paragraaf (6) te skrap, en te vervang met die woorde „of Memelvaartdag, of Gelofte dag, of Kersdag”;

(e) deur die onderstaande paragrawe by te voeg:—

„(7) 'n Spesiale groothandel-dépôt-lisensie vir bierbrouers magtig enige bierbrouer wat 'n spesiale groothandellisensie hou ingevolge die „Brouers en Distilleerderse Licentie Belasting Proclamatie 1924”, soos gewysig, om sy eie vervaardigde produk in hoeveelhede van minstens vyf gelling waar dit in 'n vat is, of minstens twee gelling waar dit in 'n bottel is, uit enige dépôt aan die algemene publiek te verkoop, maar nie ter verbruik op die perseel nie. Sodanige dépôt mag nie bestuur of beheer word deur 'n houër van 'n kleinhandel- of ligte dranklisensie ingevolge hierdie Proklamasie of 'n wysiging daarvan nie, en sodanige dépôt mag nie bestaan op 'n perseel wat 'n kleinhandel- of ligte dranklisensie ingevolge genoemde Proklamasie dra nie. Behoudens die bepaling van artikel *negeen-entwintig* van hierdie Ordonnansie is die bepaling van sub-paragraaf (b), (c) en (d) van paragraaf (3) van hierdie artikel ten opsigte van bottellisensies

of this Proclamation or any amendment thereof relating to sales under a bottle licence and all the obligations and disabilities of and penalties upon the holders of bottle licences shall apply in so far as they can be applied in respect of sales of liquor by the holder of a special brewers wholesale depot licence for consumption off the licensed premises authorised in terms of this paragraph and in respect of the licensee of such premises, and the licensing court may, in respect of such sales and licensee, exercise all such powers as it may exercise in respect of a bottle licence in so far as these powers can be exercised in relation to the product of the manufacture of a brewer of beer.

(8) Where the conditions of a retail or light liquor licence authorise the sale of liquor for consumption off the licensed premises, all the provisions of this Proclamation, as amended from time to time, relating to sales under a bottle licence and all the obligations and disabilities of and penalties upon the holders of bottle licences shall apply in respect of the said sales of liquor for consumption off the licensed premises, authorised as aforesaid and in respect of the licensee of such premises, and the licensing court may, in respect of such sales and licensee, exercise all such powers as it may exercise in respect of a bottle licence: Provided that notwithstanding anything in sub-paragraph (b) of paragraph (3) contained such sales of liquor for consumption off the licensed premises may take place from the same room or rooms as sales of liquor for consumption on the licensed premises unless the licensing court determine otherwise: Provided further that nothing therein contained shall be construed as imposing upon any holder of a retail or light liquor licence who is authorised by the conditions of his licence to sell liquor for consumption off the licensed premises, any liability for the payment of an annual licence fee which is payable in respect of a bottle licence."

5. The following sections are hereby substituted for section *twenty-six* of the principal Proclamation:—

"Licensing courts constituted.

26. (1) Courts for the consideration and determination of applications for or relating to the granting, renewal, transfer, removal, ratification of temporary transfers, ratification of removal of the following licences—

- (a) wholesale;
- (b) retail;
- (c) bottle;
- (d) club;
- (e) light liquor; and
- (f) special brewers wholesale depot,

and for the consideration and determination of applications for a conditional authority in terms of section *thirty-five bis*, are hereby constituted and shall be held in and for each district of the Territory: Provided that all such applications for or relating to retail or light liquor licences in respect of railway refreshment cars on any railway line between Usakos and Outjo, Tsumeb or Grootfontein, shall be considered by the licensing court for the district of Otjiwarongo, and all applications for such licences in respect of any other railway refreshment cars shall be considered by the licensing court for the district of Windhoek.

(2) Every court constituted under sub-section (1) shall consist of —

- (a) the magistrate, or in his absence the acting magistrate, or if one has not been appointed, the assistant magistrate; and
- (b) two other members to be appointed by the Administrator.

(3) The member of the court mentioned in paragraph (a) of sub-section (2) shall be the chairman of the court and preside at every meeting thereof.

mutatis mutandis van toepassing op spesiale groot-handel-dépôtlicensies vir bierbrouers, en geld die verdere bepalings van hierdie Proklamasie of 'n wysiging daarvan met betrekking tot verkope ingevolge 'n bottellisensie en al die verpligtings en onbevoegdhe van die houers van bottellisensies, en die strawwe waaraan hulle onderhevig is, vir so ver moontlik die verkoop van drank deur die houer van 'n spesiale groot-handel-dépôtlicensie vir bierbrouers ter verbruik buite die gelisensieerde perseel gemagtig ingevolge hierdie paragraaf en die houer van sodanige perseel, en die lisensiehof kan ten opsigte van sulke verkope en lisensiehouer al die bevoegdhe wat hy ten opsigte van 'n bottellisensie besit, uitoefen vir sover hierdie bevoegdhe uitoefen kan word met betrekking tot die vervaardigde produk van 'n bierbrouer.

(8) Waar die voorwaardes van 'n kleinhandel- of ligte-dranklisensie die verkoop van drank ter buiterverbruik magtig, geld al die bepalings van hierdie proklamasie, soos van tyd tot tyd gewysig, betreffende verkope ingevolge 'n bottellisensie, as ook al die verpligtings en onbevoegdhe van strawwe waaraan die houers van bottellisensies onderhevig is ten opsigte van die bedoelde drankverkope ter buiterverbruik en die betrokke lisensiehouer wat soos voormeld gemagtig is, en die lisensiehof kan betreffende sodanige verkope en lisensiehouer al die bevoegdhe uitoefen wat hy betreffende 'n bottellisensie kan uitoefen: Met dien verstande dat, die bepalings van sub-paragraaf (b) van paragraaf (3) ten spyte, sodanige drankverkope ter buiterverbruik in dieselfde vertrek(-ke) kan geskied as drankverkope ter verbruik op die perseel, tensy die lisensiehof egter anders beslis: Met dien verstande voorts dat geen bepaling daarvan enige houer van 'n kleinhandel- of ligte-dranklisensie wie se lisensie-voorwaardes hom magtig om drank ter buiterverbruik te verkoop, vir die jaarlikse lisensiegeld wat vir 'n bottellisensie betaalbaar is aanspreklik maak nie."

5. Artikel *ses-en-twintig* van die hoofproklamasie word hierby vervang met die onderstaande artikels:—

"Instelling van Lisensiehoue.

26. (1) Howe ter oorweging van, en beslissing oor, aansoek om, of in verband met, die toekenning, hernuwing, oordrag, verplasing, bekragting van tydelike oordrag, bekragting van verplasing van die onderstaande lisensies—

- (a) groot-handellisensies;
- (b) klein-handellisensies;
- (c) bottellisensies;
- (d) klublisensies;
- (e) ligte-dranklisensies; en
- (f) spesiale groot-handel-dépôtlicensies vir bierbrouers;

en ter oorweging van, en beslissing oor, aansoek om voorwaardelike magtiging ingevolge artikel *ryf-en-dertig bis*, word hierby ingestel en moet in, en vir elke distrik van die Gebied sitting hou: Met dien verstande dat elke sodanige aansoek om, of in verband met, kleinhandel- of ligte-dranklisensies vir spoorwegverversingswaens op enige spoorlyn tussen Usakos en Outjo, Tsumeb of Grootfontein, oorweeg moet word deur die lisensiehof vir die distrik Otjiwarongo, en dat elke aansoek om sodanige lisensies vir enige ander spoorwegverversingswaens oorweeg moet word deur die lisensiehof vir die distrik Windhoek.

(2) Elke hof wat ingevolge sub-artikel (1) hiervan saargestel word, bestaan uit —

- (a) die magistraat, of by sy afwesigheid, die waarnemende magistraat, of as daar geen waarnemende magistraat aangestel is nie, die assistent-magistraat; en
- (b) nog twee lede wat deur die Administrateur aangestel word.

(3) Die lid van die hof wat in paragraaf (a) van sub-artikel (2) genoem word, is voorsitter van die hof, en sit by elke sitting daarvoor.

(4) The members of the court appointed in terms of paragraph (b) of sub-section (2) shall receive such remuneration and allowances as may be determined by the Administrator.

Provision where new district constituted.

26bis. (1) In the event of the Administrator in the exercise of any power vested in him detaching any portion of a district for the purpose of creating a new district or to form part of another district, the licensing court of such first-mentioned district shall from the date of such detachment, cease to have jurisdiction in the detached portion of the first-mentioned district, but all licences issued, all conditions imposed and all things done under the authority of this Proclamation in such portion shall remain of force and effect as if no such detachment had taken place.

(2) In the event of the Administrator in the exercise of any power vested in him creating any new district, a licensing court for such district shall forthwith be constituted in manner provided in section twenty-six. The first members of such court appointed under paragraph (b) of sub-section (2) of section twenty-six shall hold office from the date of their appointment until the last day of December next ensuing.

General disqualification for membership of court.

26ter. (1) The following persons shall be disqualified for appointment or if appointed, from sitting as members of a licensing court:—

- (a) The holder of, or applicant for, any licence for the sale of intoxicating liquors;
- (b) any brewer or distiller;
- (c) any person engaged in making wine or spirits for sale;
- (d) any spouse, partner, agent or employee of any person described in paragraph (a), (b) or (c);
- (e) any officer or agent of any partnership or association of persons or society interested in the sale or the prevention of the sale of intoxicating liquor, and any person who holds, or during the preceding period of three years has held, an official position in an association or society having as its main object the suppression or promotion of the liquor trade;
- (f) any person employed directly or indirectly as an agent for the purpose of making any application to a licensing court for any other person, or any partner of any person so employed as an agent;
- (g) any person who is a director, agent, manager or employee of, or a partner in, any business, trade or calling carried on upon any licensed premises or the owner, lessor, or lessee of or the holder of any mortgage bond upon such premises, or upon any land in respect of which an application is made under section thirty-five bis;
- (h) any unrehabilitated insolvent;
- (i) any person who, within the Territory or elsewhere, has had a sentence of imprisonment without the option of a fine imposed upon him for the commission of some crime or offence not of a political character and has not received a free pardon therefor;
- (j) the chairman or the member of a committee or an officer of any club in respect of which a liquor licence is held within the district in which the court has jurisdiction.

(2) The fact that a person is a member of a club holding a club liquor licence shall not of itself disqualify him from being a member of a licensing court.

(3) No member of a court shall take his seat at any annual meeting thereof unless he has, not more than seven days previously, signed

Wanneer nuwe distrik gestig word.

(4) Die lede van die hof wat ingevolge paragraaf (b) van sub-artikel (2) aangestel word, ontvang sodanige besoldiging en toelae soos deur die Administrateur bepaal mag word.

26bis. (1) Wanneer die Administrateur by die uitoefening van sy bevoegdhede 'n deel van 'n distrik afsonder om 'n nuwe distrik te stig of om 'n deel van 'n ander distrik uit te maak, dan vervul die bevoegdheid van die lisensiehof van eersgenoemde distrik van die dag af waarop die afsondering geskied in die afgesonderde deel van eersgenoemde distrik, maar alle uitgereikte lisensies, alle gestelde voorwaardes en alle verrigtinge kragtens hierdie Proklamasie in daardie deel, bly van krag asof die afsondering nie plaasgevind het nie.

(2) Wanneer die Administrateur by die uitoefening van sy bevoegdhede 'n nuwe distrik stig, moet daar onverwyld 'n lisensiehof vir daardie distrik ingestel word soos artikel ses-en-twintig bepaal. Die eerste lede van 'n hof aangestel ingevolge paragraaf (b) van sub-artikel (2) van artikel ses-en-twintig beklee hulle amp van die dag van hulle benoeming tot die laaste dag van die daaropvolgende Desember.

Algemeen onbevoegdhed om lid van hof te wees.

26ter. (1) Die volgende persone is onbevoeg om benoem te word of indien benoem, om sitting te neem as lede van 'n lisensiehof —

- (a) die houer van, of aansoeker om, 'n lisensie vir die verkoop van sterk drank;
- (b) 'n bierbrouer of drankstoker;
- (c) iemand wat die vervaardiging van wyn en spiritualiteit ter verkoop beoefen;
- (d) 'n eggenoot, vennoot, agent of dienaar van iemand vermeld in paragraaf (a), (b) of (c);
- (e) 'n beampte of agent van 'n vennootskap of vereniging van persone of genootskap wat belang het by die verkoop of by die verhinderings van die verkoop van sterk drank, en iemand wat 'n offisiële betrekking beklee of gedurende die voorafgaande drie jaar beklee het in 'n vereniging of genootskap wat die onderdrukking of bevordering van die drankhandel as sy hoofdoel beskou;
- (f) iemand wat direk of indirek as agent opdrag ontvang het om by 'n lisensiehof namens iemand anders enige aansoek in te dien of 'n vennoot van iemand wat aldus opdrag ontvang het;
- (g) iemand wat 'n direkteur, agent of bestuurder van, of in diens van, of 'n vennoot in, 'n besigheid, bedryf of beroep uitgeoefen in 'n gelisensieerde perseel, of die eienaar, verhuurder, huurder of wat verbandhouer is van so 'n perseel of van grond ten opsigte waarvan 'n aansoek kragtens artikel vyf-en-dertig bis gedoen is;
- (h) 'n ongerehabiliteerde bankroetier;
- (i) iemand wat in die Gebied of elders tot gevangenisstraf sonder die keuse van 'n boete veroordeel is weens een of ander oortreding van nie-politieke aard, en aan wie desweë geen gracie verleen is nie;
- (j) die voorsitter of 'n lid van die bestuur of 'n beampte van 'n klub ten opsigte waarvan 'n dranklisensie gehou word in die distrik waarin die hof bevoegdheid het.

(2) Niemand is bloot weens sy lidmaatskap van 'n klub wat 'n klubdranklisensie besit, onbevoeg om lid van 'n lisensiehof te wees nie.

(3) Geen lid van 'n lisensiehof mag op 'n jaarlikse vergadering daarvan sitting neem, tensy hy hoogstens sewe dae vantevore 'n verkla-

and handed to the chairman a declaration that to the best of his knowledge and belief he is not disqualified from sitting as a member of the licensing court by reason that he is a person, or one of a class of persons, described in sub-section (1).

Special disqualification of members of court in particular cases.

26quat. No member of a licensing court shall take any part in the hearing or decision of any application for a licence under this Proclamation if he is —

- (a) an owner, mortgagee, lessor or lessee of the premises in respect of which the application is made;
- (b) a partner, agent or employee of the applicant or of any objector to the application; or
- (c) a director, manager or other officer, employee or agent of any company or association which would, if it were an individual, fall within paragraph (a) or (b).

Tenure of office of members of licensing court.

26quin. (1) Every member of a licensing court appointed by the Administrator under this Proclamation shall hold office from the first day of January next ensuing after his appointment and continue therein until the last day of December in the same year: Provided that every member appointed in the year 1952 shall hold office from the date of his appointment until the last day of December, 1953.

(2) In the event of any member of a licensing court vacating his office by death, resignation, disqualification, or for any other cause whatever, the vacancy shall be filled by some person appointed by the Administrator.

Secretary to licensing court.

26sext. The chairman of a licensing court may, with the approval of the Administrator, appoint as secretary thereof any member of the public service upon the staff of the magistrate of the district. If no such appointment is made, the clerk of the magistrate's court of the district shall be the secretary of the court.

Order of business.

26sept. (1) The order of business at any licensing court meeting shall be as determined by the court: Provided that all applications for the renewal of licences shall be heard and disposed of before applications for the grant of new licences are considered.

(2) All meetings of a court shall be open to the public: Provided that if the court so determines, the deliberation and voting upon any matter shall be in private.

Decisions on matters of law.

26oct. (1) Any matter of law arising for decision at any meeting of a licensing court, and any question arising at any such meeting as to whether a matter for decision is a matter of fact or a matter of law, shall be decided by the chairman, and no other member of the court shall have a voice in the decision of any such matter.

(2) The chairman may adjourn the argument upon any such matter as may arise in terms of sub-section (1) and may sit without any other member of the court for the hearing of such argument and the decision of such matter.

(3) Whenever the chairman shall give any decision in terms of sub-section (1), he shall state his reasons for that decision.

Decisions on matters of fact.

26nov. (1) Upon all matters of fact (which shall be deemed to include any question as to the taking of evidence, or the calling of any witness, or the order of the court's proceedings, or the taking of its own motion of any objection in terms of section forty-one) the decision or opinion of the majority of the members present and qualified to vote shall be the decision or opinion of the court: Provided that in the

ring dat hy, vir sover hy weet, nie onbevoeg is om as lid van 'n lisensiehof sitting te neem omdat hy iemand is, of behoort aan 'n klas persone, vermeld in sub-artikel (1), geteken en aan die voorsitter ingelewer het.

Spesiale onbevoegdheid van lisensiehof se lede in besondere gevalle.

26quat. Geen —

- (a) eienaar, verbandhouer, huurder of verhuurder van persele ten opsigte waarvan daar ingevolge hierdie Proklamasie om 'n lisensie aansoek gedoen word; nóg
- (b) 'n vennoot, agent of dienaar van so 'n aansoek of agent van 'n beswaarmaker teen so 'n lisensie; nóg
- (c) 'n direkteur, bestuurder of ander beampte, dienaar of agent van 'n maatskappy of vereniging wat, as dit 'n persoon was, binne paragraaf (a) of (b) sou ressorteer — mag as lid van 'n lisensiehof deelneem aan die verhoor of beslissing van so 'n aansoek om 'n lisensie nie.

Ampsduur van lede van lisensiehof en die aanvulling van vakatures.

26quin (1) Elke lid van 'n lisensiehof wat die Administrateur ingevolge hierdie Proklamasie aanstel, beklee sy amp van die eerste dag van die eerskommende Januarie na sy aanstelling tot op die laaste dag van Desember in dieselfde jaar: Met dien verstande dat elke lid wat in die jaar 1952 aangestel word, sy amp beklee van sy aanstellingsdag af tot op die laaste dag van Desember 1953.

(2) Waar 'n lid se amp in die lisensiehof weens sy oorlyde, bedanking, onbevoegdheid of om 'n ander rede hoegenaamd, vakant raak, stel die Administrateur iemand anders in sy plek aan.

Sekretaris van die lisensiehof.

26sext. Met Administrateursgoedkeuring kan die voorsitter van 'n lisensiehof 'n staatsamptenaar in die magistratuurpersoneel van die distrik as sekretaris van so 'n lisensiehof aanstel. Waar geen sodanige aanstelling geskied nie, is die klerk van die magistratuurhof van die distrik die sekretaris.

Volgorde van werksaamhede.

26sept. (1) Die volgorde van werksaamhede by 'n sitting van 'n lisensiehof word deur die hof bepaal: Met dien verstande dat alle aansoeke om die vernuwung van lisensies verhoor en afgehandel moet word voordat aansoeke om nuwe lisensies aan die beurt kom.

(2) Die verrigtinge van 'n lisensiehof is vir die publiek toeganklik: Met dien verstande dat waar die hof aldus besluit, die bespreking en stemming oor 'n saak privaat geskied.

Beslissing van regspunte.

26oct. (1) Waar 'n regspunt by 'n sitting van 'n lisensiehof ter beslissing kom, of waar die vraag ontstaan of 'n punt wat uitgemaak moet word, 'n regspunt dan wel 'n feitspunt is, beslis die voorsitter, en het geen ander lid van die hof seggingskap daarby nie.

(2) Die voorsitter mag die bepleiting van 'n punt waaroor sub-artikel (1) gaan, verduig, en dan alleen sit ter verhoor en beslissing van die punt.

(3) Wanneer die voorsitter 'n beslissing ingevolge sub-artikel (1) gee, moet hy dit met redes omkleed.

Beslissing van feite.

26nov. (1) By elke vraag wat op feite berus (en dit omvat elke vraag oor die afneem van getuienis of die oproep van 'n getuie of die volgorde van die lisensiehof se werksaamhede of die opper, uit die beweging, van 'n beswaar uit hoofde van artikel een-en-veertig) is die beslissing of oordeel van die meerderheid van die aanwesige en stembevoegde lede die beslissing of oordeel van die hof:

event of an equality of votes the chairman in addition to his deliberative vote shall have a casting vote.

(2) It shall not be incumbent upon the court to give any reason for its decision upon any matter decided under sub-section (1).

Records of court's proceedings.

26dec. (1) A record of the proceedings in public of a licensing court at every meeting shall be kept and shall be filed in the office of the magistrate of the district, and the same may be inspected and copies thereof obtained upon like conditions and upon payment of the same fees as if they were civil records of a magistrate's court.

(2) A separate record shall be kept of the proceedings in private of a licensing court and such record shall not be disclosed to any person other than the Administrator save upon an order of the High Court of South West Africa.

6. The following section is substituted for section *twenty-nine* of the principal Proclamation:—

"List of persons to whom certificates granted and nature of restrictions, conditions and privileges to be sent to magistrates.

29. The magistrate, acting magistrate, or assistant magistrate, as the case may be, presiding at such court as in section *twenty-six* provided, shall within seven days of the date of its determination in respect of each licence for which application has been made, transmit to the magistrate of the district concerned a list signed by him specifying the names and places of residence of all persons to whom certificates have been granted by the court and the nature of, and restrictions and conditions imposed and privileges granted in respect of each licence granted or renewed."

7. The following section is substituted for section *thirty* of the principal Proclamation:—

"Power of licensing court to impose conditions and nature of conditions.

30. A licensing court, in granting or renewing any licence, or allowing an application for the removal of such licence, may impose such conditions it may deem fit in respect of—

- any structural alteration or arrangement of, or addition or repairs to, the premises in respect of which the application is made; or
- accommodation to be afforded thereon to the public, including facilities and amenities to be provided in bed and bathrooms; or
- means of egress in case of fire, garage accommodation, proper drainage and sanitary arrangements and conveniences upon the premises; and
- as to any other provision deemed by the court to be necessary in order to meet the reasonable requirements of the public or visitors upon such premises, or to facilitate supervision by the police, or in any other respect,

and may stipulate the period of time within which any such condition shall be complied with by the licensee, or may stipulate that a licence shall not be issued until the senior officer of police in charge of the district or the magistrate has certified in writing that the condition has been fulfilled."

8. The following sections are hereby inserted in the principal Proclamation after section *thirty*:—

"General suitability of premises.

30 bis. Before granting any application for the grant or renewal of a licence or for the removal of a licence to other premises, a licensing court, and in the case of removal any magistrate acting under section *forty-eight*, shall satisfy itself or himself that the premises in respect of which the application is made or to which the licence is to be removed afford suitable and satisfactory accommodation for all purposes to which they may lawfully, in

Met dien verstande dat by staking van stemme die voorsitter sowel 'n beslissende as 'n beraadslagende stem het.

(2) Die hof is nie verplig om sy beslissing van 'n vraag waaroor sub-artikel (1) gaan met redes te omkleed nie.

Notule van hof se verrigtings.

26dec. (1) Die openbare verrigtings by elke lisensiehoofstelling moet genoteuleer word, en op kantoor van die magistraat van die distrik behaar word, en insae daarin en afskrifte daarvan moet verkry kan word op dieselfde voorwaardes en teen betaling van dieselfde gelde asof dit siviele notule van 'n magistratshof was.

(2) Die private verrigtings van 'n lisensiehof moet afsonderlik genoteuleer word, en daardie notule mag aan niemand behalwe die Administrateur openbaar word nie, tensy die Hoë Hof van Suidwes-Afrika dit gelas.

6. Artikel *negen-en-twintig* van die hoofproklamasie word hierby vervang met die onderstaande artikel:—

"Lys van persone aan wie sertifikate toegestaan is, en aard van beperkings, voorwaardes en voorregte moet aan magistraat gestuur word.

29. Die magistraat, waarnemende magistraat of assistent-magistraat, na gelang, wat voorsit by sodanige lisensiehof soos artikel *ses-en-twintig* bepaal, moet binne sewe dae na die datum van sy beslissing oor elke lisensie waarom aansoek gedoen is, 'n lys, deur hom onderteken, aan die magistraat van die betrokke distrik destuur, waarop die name en woonplekke van al die persone aan wie die hof sertifikate toegestaan het, en die aard van, en die beperkings en voorwaardes opgelê, en die voorregte (toegeken teen opsigte van elke toegestane of hernude lisensie, aangegee word."

7. Artikel *dertig* van die hoofproklamasie word hierby vervang met die onderstaande artikel:—

"Mag van lisensiehof om voorwaardes te stel, en aard van voorwaardes.

30. By die toekennning of hernuwing van 'n lisensie, of by die goedkeuring van 'n aansoek om verplasing van sodanige lisensie, kan die lisensiehof na goedgeunde voorwaardes stel ten opsigte van—

- enige bouverandering of -reël van, of byvoeging of herstel aan, die perseel in verband waarmee die aansoek gedoen is; of
- die plaasruimte daarop wat aan die publiek verskaaf moet word, met insluiting van fasiliteite en geriewe in slaap- en badkamers; of
- brand-nooduitgange, motorhuisgeriewe, behoorlike dreinerings- en sanitasie-reëlings en -geriewe op die perseel; en
- enige ander voorsiening wat die hof noodsaaklik ag vir die redelike behoeftes van die publiek of besoekers op sodanige perseel, of om toesig deur die polisie te vergemaklik, of in enige ander opsig.

en kan die hof vasstel binne watter tydperk die lisensiehouer sodanige voorwaardes moet nakom, of kan hy neerlê dat 'n lisensie nie uitgereik mag word nie, voordat die senior bevelvoerende polisie-offisier van daardie distrik op skrif getuig het dat die voorwaarde nagekom is."

8. Die onderstaande artikels word hierby in die hoofproklamasie na artikel *dertig* ingevoeg:—

"Algemene geskiktheid van perseel.

30 bis. Voor goedkeuring van 'n aansoek om toekennning of hernuwing van 'n lisensie, of om verplasing van 'n lisensie na 'n ander perseel, moet 'n lisensiehof, en in die geval van verplasing 'n magistraat wat ingevoel artikel *agt-en-veertig* optree, hom oortuig dat die perseel ten opsigte waarvan die aansoek gedoen is, of waarheen die lisensie verplaas moet word, geskikte en voldoende plaasruimte verskaaf vir alle doelindes waarvoor dit wettig ingevolgt

terms of the licence, be put and are sufficiently complete to enable them to be occupied for the purposes of the licence, and to enable the proposed licensed business to be carried on in accordance with the law governing the same.

30 *ter.* (1) No retail or light liquor licence in respect of an hotel shall be granted and after a period of two years from the commencement of this Ordinance, no such licence shall be renewed, unless the licensing court to which application for the grant or renewal is made is satisfied—

- (a) that the premises in respect of which the application is made afford reasonable residential accommodation for guests, including not less than ten bedrooms where the premises are situated within a municipality or five bedrooms where the premises are situated elsewhere;
- (b) that adequate and proper sanitary and bathroom arrangements are provided on the premises; and
- (c) that a *bona fide* hotel providing such accommodation is or will be conducted by the licensee upon the premises.

(2) For the purposes of this section no room shall be counted as a bedroom which is ordinarily occupied by the licensee or by any member of his family, or by any person employed upon the licensed premises.

(3) Whenever, by the constitution, or extension of the boundaries of any municipality, premises in respect of which a retail or light liquor licence in respect of an hotel is held which were previously situated outside a municipality become included in a municipality, the provisions of sub-section (1) requiring that such premises shall contain not less than ten bedrooms shall not apply until the expiration of two years from the date when the premises became so included."

9. Section *thirty-one* of the principal Proclamation is hereby amended by the insertion after the words "Good Friday" of the words "Ascension Day or Day of the Covenant".

10. Section *thirty-two* of the principal Proclamation is hereby amended by the insertion after the words "Good Friday" of the words "Ascension Day or Day of the Covenant".

11. The following sections are hereby inserted after section *thirty-two* of the principal Proclamation:—

"Liability of lessor in respect of alteration or repairs ordered by licensing court.

32 *bis.* (1) Whenever in terms of section *thirty* a licensing court has, in respect of any premises on which is carried on a business for which a retail licence or light liquor licence is necessary, imposed a condition involving a structural alteration or repairs of or addition to such premises, the licensee upon whom such condition has been imposed may if he be a lessee of the premises, require the lessor thereof to comply with the requirements of the court within any period stated in the condition.

(2) If upon a reasonable and *bona fide* estimate the cost of effecting the alteration or repair of or addition to the premises will not exceed three hundred pounds, the licensee, if the lessor within the time stated in the condition or, if no time is stated, within three months of the receipt by him of any notice under sub-section (1) has not effected the alteration or repairs of or addition to the premises, may himself effect the same, and he may set off against any rent due or to become due by him to the lessor the sum which he has expended in complying with the condition.

„Perseel ten opsigte waarvan 'n kleinhandel- of ligte-dranksensie vir hotelle uitgereik mag word.

die lisensie gebruik kan word, en dat dit genoegsaam voltooi is vir besetting ter uitvoering van die lisensie en om die beoogde gelisensieerde saak ooreenkomstig die regs-bepalings wat daarop betrekking het, te draf.

30 *ter.* (1) Geen kleinhandel- of ligte-dranksensie vir 'n hotel mag toegeken word nie, en na verloop van twee jaar vanaf die inwerking-treding van hierdie Ordonnansie, mag geen sodanige lisensie hernu word nie, tensy die lisensiehof by wie aansoek om toekening of hernuwing gedoen is, oortuig is—

- (a) dat die perseel ten opsigte waarvan die aansoek gedoen is redelike woonplek vir gaste bied insluitende minstens tien slaapkamers waar die perseel geleë is binne 'n munisipaliteit, of vyf slaapkamers waar die perseel elders geleë is;
- (b) dat voldoende en behoorlike sanitasie en badkamergeriewe op die perseel verskaf word; en
- (c) dat die lisensiehouer 'n *bona fide* hotel met sodanige beskikbare woonruimte en geriewe op daardie perseel draf of sal draf.

(2) By die toepassing van hierdie artikel tel geen kamer wat die lisensiehouer of 'n lid van sy gesin, of iemand wat op die gelisensieerde perseel in diens is, gewoonlik bewoon, as slaapkamer nie.

(3) Wanneer ook al 'n perseel ten opsigte waarvan 'n kleinhandel- of ligte-dranksensie vir 'n hotel gelou word, en wat buite 'n munisipaliteit geleë is, deur instelling of uitbreiding van die grense van 'n munisipaliteit, in die munisipaliteit ingesluit word, geld die bepaling van sub-artikel (1) wat vereis dat sodanige perseel minstens tien slaapkamers moet bevat, nie voor afloop van twee jaar vanaf die datum waarop die perseel aldus ingesluit is nie."

9. Artikel *een-en-dertig* van die hoofproklamasie word hierby gewysig deur die woorde „Hemelvaartdag of Geloftedag" in te voeg na die woord „Kerstmisdag".

10. Artikel *twee-en-dertig* van die hoofproklamasie word hierby gewysig deur die woorde „Hemelvaartdag of Geloftedag" in te voeg na die woord „Kerstmisdag".

11. Die onderstaande artikels word hierby na artikel *twee-en-dertig* van die hoofproklamasie ingevoeg:—

„Aanspreklike- held van verhuurder by veranderings of herstel beveel deur lisensiehof.

32 *bis.* (1) Wanneer ook al 'n lisensiehof ingeвоelge artikel *dertig*, en ten opsigte van 'n perseel waarop 'n saak gedraf word, waarvoor daar 'n kleinhandel- of ligte-dranksensie nodig is, 'n voorwaarde gestel het waarby 'n bouverandering of herstel van, of byvoeging tot sodanige perseel betrokke is, kan die lisensiehouer op wie sodanige voorwaarde geleë is, en as hy die huurder van die perseel is, eis dat die verhuurder daarvan die bevel van die hof binne die tydperk in die voorwaarde vasgestel, moet nakom.

(2) As die koste van die verbouing of herstel van, of byvoeging aan, die perseel met 'n redelike en *bona fide* beraaming op 'n bedrag (hoogstens driehonderd pond) gestel word, kan die lisensiehouer, as die verhuurder binne die tydperk in die voorwaarde genoem, of, as daar geen tydperk nangegee is nie, binne drie maande nadat hy kennisgewing ingevoelge sub-artikel (1) ontvang het, nog nie die verbouing of herstel van, of byvoeging aan, die perseel uitgevoer het nie, dit self doen, en kan hy die bedrag wat hy bestee het aan die nakoming van die voorwaarde, verreken teen enige huurgeld wat hy aan die verhuurder skuld of moontlik sal skuld.

(3) If upon a reasonable and *bona fide* estimate the cost of effecting the alteration or repairs of or addition to the premises will exceed three hundred pounds and the lessor does not within the time stated in the condition, or if no time is stated, within six months of the receipt by him of any notice under sub-section (1), comply with the requirements of the condition, the licensee, notwithstanding any agreement to the contrary, may forthwith and without notice terminate the lease.

"Addition to rent where premises altered or added to by lessor."

32 *ter.* Whenever in consequence of any condition imposed by a licensing court in terms of section *thirty* a lessor has altered or added to premises upon which is carried on a business for which a retail licence or a light liquor licence is necessary and the expenditure incurred has exceeded three hundred pounds, such lessor, notwithstanding any term of the lease may, as from the date of the completion of the alteration or addition, increase the rent of such premises by a sum not exceeding ten per cent. per annum of the amount of the expenditure incurred, and the rental so increased shall be deemed to be the rent due under the lease."

12. The following section is substituted for section *thirty-three* of the principal Proclamation:

"Evidence on oath.

33. (1) When any licensing court deems it necessary to take evidence respecting any question to be determined by such court, such evidence shall be given on oath to be administered by the chairman and recorded.

(2) A licensing court may, by written notice under the hand of its chairman or secretary, require the attendance before it of any person who has made any of the applications mentioned in sub-section (1) of section *twenty-six* or in the case of the absence of the holder of any licence, of any person who in such absence is charged with the conduct of the business carried on under such licence, or of any other person who, in the opinion of the court, is able to testify as to any matter which the court has to determine; and may also by like notice require such applicant or person to produce any books or documents relevant to the matter before the court in his possession or under his control.

(3) Any person who —

- (a) refuses or fails without sufficient excuse to attend and give evidence before a licensing court at the time and place specified in a notice given under sub-section (2), or to produce any book, paper or document which he has been required by such notice to produce; or
- (b) knowing that he is disqualified from doing so, sits or votes as a member of a licensing court or takes any part in the hearing or decision of an application for a licence or wilfully makes a false declaration as to his qualification to be a member of the licensing court, shall be guilty of an offence.

13. The following section is substituted for section *34 bis* of the principal Proclamation:—

"Appeals.

34 *bis.* (1) An appeal shall lie to a licensing board of appeal (hereinafter called the board) constituted in accordance with the provisions of this section by—

- (a) any person who has made an application for a licence in terms of section *thirty-five* against any determination or decision of the licensing court under section *twenty-six* including any conditions imposed under section *thirty*;

(3) As die koste van die verbouing of herstel van, of byvoeging aan, die perseel met 'n redelike en *bona fide* beraming op meer as driehonderd pond gestel word, en die verhuurder nie binne die tydperk in die voorwaarde genoem, of as daar geen tydperk genoem is nie, binne ses maande vanaf ontvangs deur hom van 'n kennisgewing ingevolge sub-artikel (1) nog nie die vereistes van die voorwaarde niteenstaande enige strydige ooreenkoms nagekom het nie, kan die lisensiehouer die huur onmiddellik en sonder kennisgewing beëindig.

"Byvoeging tot huurgeld waar verhuurder perseel verbou of aangebou het."

32 *ter.* Wanneer ook al 'n verhuurder ten gevolge van 'n voorwaarde wat 'n lisensiehouer ingevolge artikel *dertig* opgelê het, 'n perseel waarop daar 'n saak gedryf word, waarvoor daar 'n kleinhandel- of ligte-dranksiensie nodig is, verbou het, of daaraan bygevoeg het, en die uitgawe daaraan is meer as driehonderd pond, kan sodanige verhuurder niteenstaande enige voorwaarde van die huurkontrak, die huurgeld van sodanige perseel vanaf die datum waarop die verbouing of toevoeging voltooi is, verhoog met 'n bedrag van hoogstens tien persent per jaar van die bedrag van die uitgawe aangegaan, en die aldus verhoogde huurgeld word gehou vir die huurgeld betaalbaar ingevolge die huurkontrak."

12. Die onderstaande artikel vervang hierby artikel *drie-en-dertig* van die hoofproklamasie:

"Getuënis onder eed."

33. (1) Wanneer 'n lisensiehof dit nodig ag om getuënis af te neem oor 'n vraag wat hy moet beslis, moet daardie getuënis afgelê word onder 'n eed wat die voorsitter opleë, en moet die getuënis genotuleer word.

(2) 'n Lisensiehof mag iemand wat by hom aansoek gedoen het om 'n nuwe lisensie of om die hernuwing, oordrag of verplasing van 'n lisensie soos genoem in sub-artikel (1) van artikel *ses-en-twintig* (of, as sodanige lisensiehouer afwesig is, die persoon wat by sodanige afwesigheid belas is met die bestuur van die sake-onderneming wat kragtens die lisensie gedryf word) of enigeemand anders wat, na die hof se oordeel, getuënis kan aflê oor enigiets wat die hof moet beslis, by skriftelike kennisgewing onder die hand van sy voorsitter of sekretaris, voor hom daag, en mag, by 'n dergelike kennisgewing, die gelagde gelas om enige boeke, stukke of dokumente in sy besit of onder sy beheer, betreffende die saak voor die hof, aan die hof voor te lê.

(3) Elkeen wat —

- (a) weier, of sonder genoegsame verskoning versuim, om voor 'n lisensiehof te verskyn en getuënis af te lê op die tyd en plek wat 'n kennisgewing ingevolge sub-artikel (2) aandui, of om 'n boek, stuk of dokument voor te lê nadat sodanige kennisgewing hom daartoe gelas het; of wat
- (b) as lid van 'n lisensiehof optree of stem of aan die verhoor of beslissing oor 'n aansoek om 'n lisensie deelneem terwyl hy weet dat hy onbevoeg is daartoe, of wat opsetlik 'n valse verklaring aflê oor sy bevoegdheid om lid van 'n lisensiehof te wees, is skuldig aan 'n oortreding.

13. Artikel *34bis* van die hoofproklamasie word hierby vervang deur die onderstaande artikel:—

"Appel."

34 *bis.* (1) Onderstaande persone kan in hoër beroep gaan na 'n lisensie-appelraad (hierina genoem die raad) wat ooreenkomstig die bepalinge van hierdie artikel ingestel is—

- (a) enigeen wat ingevolge artikel *vyf-en-dertig* aansoek gedoen het om 'n lisensie, teen enige vasstelling of beslissing van die lisensiehof ingevolge artikel *ses-en-twintig* insluitende enige voorwaardes gestel ingevolge artikel *dertig*;

(b) any objector mentioned in section *thirty-nine*, who, if he is an objector to the granting of a licence on any of the grounds mentioned in section *forty*, or to the renewal of a licence in terms of section *forty-two*, or to the transfer or removal of a licence in terms of section *fifty-one* shall be limited on appeal to the grounds of his objection before the licensing court, against any determination or decision of the licensing court under section *twenty-six*,

on the grounds that such determination or decision is bad in law, or that the licensing court exceeded its powers, or refused to exercise powers which it was bound to exercise or exercised its powers in an arbitrary, *male fide* or grossly unreasonable manner.

(2) Every board so constituted shall consist of three persons, one being a magistrate designated by the Administrator as the chairman thereof. The other two members shall be an officer of the public service and a nominee of the Association of Chambers of Commerce of South West Africa.

(3) The Administrator may by writing under his hand constitute such board as circumstances may require.

(4) The members of the board shall be appointed by the Administrator in writing. Every such appointment shall be for such period (which may be until one or more specified appeals have been disposed of) as the Administrator may think fit.

(5) Every notice of appeal shall be in writing, shall set out the grounds of appeal, shall bear revenue stamps to the value of one pound, and shall be lodged with the licensing court concerned within twenty-one days after the decision of the licensing court. No such notice of appeal shall be of any force or effect whatsoever unless it has been lodged within the time prescribed by this sub-section and unless it has been duly stamped as in this sub-section required.

(6) At any such appeal the appellant shall be limited to the grounds stated in his notice of appeal.

(7) Within seven days after receipt of a notice of appeal the licensing court shall furnish to the Secretary for South West Africa reasons for its decision.

(8) At least fourteen days before the date fixed for the hearing of an appeal the Secretary for South West Africa or a person duly authorised by him shall send to the applicant for and objector to the licence concerned and to the magistrate who presided at the licensing court concerned a written notice of the time and place appointed for the hearing of such appeal.

(9) The hearing of an appeal may be adjourned by the board from time to time to any time and place that may seem convenient.

(10) The appellant, any objector to a licence or the transfer or renewal thereof, the licensing court or any person who is able to satisfy the board that he has a substantial interest in the result of the appeal may appear at the hearing of the appeal in person or by his counsel or attorney.

(11) The board shall, after considering any reasons given by the licensing court and representations made by or on behalf of the appellant or objector to a licence, the licensing court or any other person entitled to representation, confirm, set aside or vary the decision

(b) enige beswaarmaker genoem in artikel *negen-en-dertig*, wat, as hy beswaar maak teen die toekening van 'n lisensie op enige gronde genoem in artikel *veertig*, of teen die hernuwing van 'n lisensie ingevolge artikel *twee-en-veertig*, of teen die oordrag of verplasing van 'n lisensie ingevolge artikel *een-en-veertig*, by sy appèl beperk word tot die gronde van sy beswaar voor die lisensiehof, teen enige vasstelling of beslissing van die lisensiehof ingevolge artikel *ses-en-twintig*,

omdat sodanige vasstelling of beslissing regtens ongegrond is, of dat die lisensiehof sy bevoegdhede oorskry het, of geweer het om bevoegdhede uit te oefen wat hy moes uitgeoefen het, of sy bevoegdhede willekeurig, *male fide*, of erg onredelik uitgeoefen het.

(2) Elke raad wat aldus ingestel is, bestaan uit drie persone, een van wie 'n magistraat is wat die Administrateur tot voorsitter van die raad aanwys. Die ander twee lede is 'n staatsamptenaar en iemand wat die Vereniging van Handelskamers van Suidwes-Afrika benoem.

(3) Die Administrateur kan op skrif onder sy hand sodanige raad aanstel soos omstandighede vereis.

(4) Die lede van die raad word skriftelik deur die Administrateur aangestel. Elke sodanige aanstelling geld vir 'n tydperk wat die Administrateur goed vind (en kan duur totdat een of meer spesifieke appèlle afgehandel is).

(5) Elke kennisgewing van appèl moet op skrif wees, moet die gronde van die appèl uitciensit, moet iukonsteseels ten bedrae van een pond dra, en moet binne een-en-twintig dae na die beslissing van die lisensiehof by die betrokke lisensiehof ingelewer word. Geen sodanige kennisgewing van appèl het enige krag of werking hoegenaamd nie, tensy dit binne die tydperk voorgeskrewe by hierdie sub-artikel ingelewer is nie, en tensy dit behoorlik ingevolge die vereistes van hierdie sub-artikel gefrankeer is nie.

(6) By elke sodanige appèl moet die appellant hom beperk tot die gronde genoem in sy kennisgewing van appèl.

(7) Binne sewe dae na ontvangs van 'n kennisgewing van appèl moet die lisensiehof die Sekretaris van Suidwes-Afrika in kennis stel van die redes vir sy beslissing.

(8) Minstens veertien dae voor die datum wat vir die verhoor van die appèl vasgestel is, stuur die Sekretaris van Suidwes-Afrika, of iemand wat behoorlik deur hom gemagtig is, aan die applikant om, en die beswaarmaker teen, die betrokke lisensie sowel as aan die magistraat wat in die betrokke lisensiehof voorgesit het, 'n skriftelike kennisgewing van die tyd en plek wat vir die verhoor van sodanige appèl vasgestel is.

(9) Die raad kan die verhoor van die appèl van tyd tot tyd en tot enige tyd en plek verdaag soos hy gerieflik vind.

(10) Die appellant, enige beswaarmaker teen die lisensie of oordrag of hernuwing, die lisensiehof of enigeen wat die raad kan oortuig dat hy wesenlik belang het by die uitslag van die appèl, kan self, of middels sy advokaat of prokureur die verhoor van die appèl bywoon.

(11) Na oorweging van die redes aangevoer deur die lisensiehof en die vertoë gerig deur of namens die appellant of beswaarmaker teen 'n lisensie of die lisensiehof of enigiemand anders wat vertoë mag rig, moet die raad die beslissing van die lisensiehof bekragtig, ver-

of the licensing court, or give such other decision as in its opinion the licensing court ought to have given, or make such order as it deems fit, including an order that the matter be referred back to the licensing court for rehearing, re-consideration and, if deemed necessary, further investigation thereof:

Provided that no decision shall be set aside—

- (a) by reason merely of a formal or technical defect in any of the proceedings which has not in the opinion of the board resulted in substantial injustice; or
- (b) in any other case, unless the board is satisfied that any matter proved, caused or was calculated to cause substantial prejudice to the appellant or to any other person.

(12) The board shall have power to award costs of the successful party according to the scale, in civil cases, of magistrates' courts. Any costs awarded as aforesaid shall be taxed by the Clerk of the Court of the Magistrate of the district in which the appeal was heard by the board, as if such costs were awarded by such court, and all rules applicable by law to the taxation and recovery of costs in magistrates' courts shall in such case *mutatis mutandis* apply.

Any costs awarded against the members of a licensing court in their official capacity shall be borne by the Administration.

(13) Any decision of the board shall be recorded by the chairman.

(14) Where the licensing court has refused to issue a licence in the case of an application for renewal in respect of an existing business and a notice of appeal has been lodged, such business may continue to operate, pending the decision of such appeal in terms of this section.

(15) The members of the board (other than those who are officers of the public service) shall receive such allowances as may be determined by the Administrator."

14. The following section is substituted for section thirty-five of the principal Proclamation:—

"Applications for licences.

35. (1) Any person desiring to obtain at a licensing court meeting any licence for which a certificate of the licensing court is necessary, or—

- (a) the renewal of any such licence;
- (b) the removal of any such licence from the licensed premises to any other premises in the same district;
- (c) the transfer of a licence from the holder thereof to any other person;
- (d) the ratification of a temporary transfer granted in terms of section forty-six;
- (e) the ratification of the removal of a licence authorised in terms of section forty-eight,

shall make application in writing to the magistrate of the district, on or before the last day of January if the matter is to be heard at the annual licensing meeting or on or before the last day of July if the matter is to be heard at the September meeting; Provided that if a transfer or removal is effected after the last day of the months of January or July, the application shall be made to the following sitting of the licensing court.

(2) Every such application, other than an application relating to a retail or light liquor licence in respect of a railway refreshment car, shall set forth—

werp of wysig, of sodanige ander beslissing gee soos die lisensiehof na sy mening moes gegee het, of sodanige bevel doen soos hy goed vind insluitende 'n bevel dat die saak terugverwys moet word na die lisensiehof ter her-verhoor, her-oorweging en, as dit nodig geag word, ter nadere ondersoek daarvan:

Met dien verstande dat geen beslissing verwerp mag word nie—

- (a) bloot weens 'n formele of tegniese gebrek in enige deel van die procedure, wat na die mening van die raad, nie wesenlike onreg ten gevolge gehad het nie; nòg
- (b) in enige ander geval nie, tensy die raad oortuig is dat enige bewese feite die appellant of enigemand anders wesenlik benadeel het of sou kon benadeel het.

(12) Die raad het die mag om die koste van die geslaagde gedingvoerder volgens die skaal wat in magistratshowe vir siviele sake geld, toe te ken. Koste wat soos voormeld toegeken word, moet deur die Klerk van die Hof van die Magistraat van die distrik waarin die appél deur die raad verhoor is, getaksier word asof sodanige koste deur sodanige hof toegeken was, en al die regsreëls op taksasie en verhaal van koste in magistratshowe is by sodanige geval *mutatis mutandis* van toepassing.

Koste toegeken teen die lede van 'n lisensiehof in hul amptelike hoedanigheid moet deur die Administrasie gedra word.

(13) Die voorsitter moet elke beslissing van die raad notuleer.

(14) Waar die lisensiehof op 'n aansoek om hernuwing ten opsigte van 'n bestaande handelsonderneming geweier het om 'n lisensie uit te reik, en kennisgewing van appél gegee is, kan sodanige handelsonderneming voortgaan hangende die beslissing van sodanige appél ingevolge hierdie artikel.

(15) Die lede van die raad (buiten staatsamptenare) ontvang toeloes soos die Administrateur bepaal."

14. Artikel vyf-en-dertig van die hoofproklamasie word hierby met die onderstaande artikel vervang:—

"Aansoek om lisensies.

35. (1) Elkeen wat by 'n vergadering van die lisensiehof 'n lisensie wil verkry waarvoor 'n sertifikaat van die lisensiehof nodig is, of—

- (a) die hernuwing van so 'n lisensie;
- (b) die verplasing van so 'n lisensie vanaf die gelisensieerde perseel na 'n ander perseel in dieselfde distrik;
- (c) die oordrag van 'n lisensie van die houër daarvan na iemand anders;
- (d) die bekragtiging van 'n tydelike oordrag toegeken ingevolge artikel ses-en-veertig;
- (e) die bekragtiging van die verplasing van 'n lisensie gemagtig ingevolge artikel agt-en-veertig;

moet by die magistraat van die distrik skriftelik aansoek doen, en wel op of voor die laaste dag van Januarie as die saak op die jaarvergadering van die lisensiehof verhoor moet word, of op of voor die laaste dag van Julie as die saak op die vergadering in September verhoor moet word: Met dien verstande dat as 'n oordrag of verplasing na die laaste dag van die maande Januarie of Julie geskied, die aansoek gerig moet word aan die daaropvolgende vergadering van die lisensiehof.

(2) Elke sodanige aansoek, buiten 'n aansoek betreffende 'n kleinhandel- of ligte-dranklisensie vir 'n spoorwegversersingswa, moet die onderstaande uitensit—

- (a) the full name and address of the applicant; and in the case of a transfer of a licence, or the ratification of a temporary transfer of a licence granted in terms of section *forty-six*, the full names and addresses of the transferor and transferee;
- (b) the name and address of any person who has, or to whom it is proposed to grant, any financial interest in the business conducted under the licence, and the nature and extent of such interest, or that no person has any financial interest, if such be the case;
- (c) the nature and description of the licence sought to be obtained, renewed, removed or transferred, including a description of all privileges granted to the holder of the licence sought to be renewed, removed or transferred, and if any privileges are sought in respect of the renewal, removal or transfer of such licence, full particulars of such privileges;
- (d) the situation of the premises where the business is intended to be carried on, including the number, or name (if any) of the building and of the street or road and the number or other designation of the lot or erf;
- (e) a description of the premises which shall be accompanied by a plan in duplicate drawn to scale clearly showing the dimensions and arrangements of the internal structure together with all doors, windows, and means of external and internal communication, and the streets and places to which such means of external communication lead: Provided that no plan shall be necessary in the case of any application mentioned in paragraphs (a), (c) or (d) of sub-section (1) if the applicant with his application submits an affidavit that since the last application for a licence, the premises have undergone no alteration;
- (f) particulars of any tie by which the applicant, or in the case of a transfer of a licence, the transferee is, or is proposed to be bound in respect of the business conducted under the licence;
- (g) in the case of a temporary transfer granted in terms of section *forty-six* or a removal authorised in terms of section *forty-eight*, the date when such temporary transfer was granted or such removal authorised.

(3) Every application relating to a railway refreshment car shall set forth the nature or description of the licence sought to be obtained or renewed and the railway line on which business is intended to be or is being carried on.

(4) Any person who submits to a licensing court or to a magistrate any written information, whether on affidavit or otherwise, which he knows to be false or does not know to be true, or is in any way a party to any such submission, shall be guilty of an offence."

15. Section *thirty-seven* of the principal Proclamation is hereby amended by the insertion after the word "transfer" of the words "the ratification of any temporary transfer or removal or the issue of a conditional authority in terms of section *thirty-five bis*."

(a) die volle naam en adres van die applikant; en by die oordrag van 'n lisensie, of die bekragtiging van 'n tydelike oordrag van 'n lisensie toegeken ingevolge artikel *ses-en-veertig*, die volle name en adresse van die oordruer en die ontvanger;

(b) die naam en adres van enigeen wat geldelike belange in die saak wat ingevolge die lisensie gedryf word, het, of aan wie daar beoog word om sodanige geldelike belange toe te staan, en die aard en omvang van sodanige belange, of andersins, as dit so is, dat niemand geldelike belange daarin het nie;

(c) die aard en beskrywing van die lisensie waarom toekening, hernuwing, verplasing of oordrag aangevra word, as ook 'n beskrywing van al die voorregte toegeken aan die houer van die lisensie waarom hernuwing, verplasing of oordrag aangevra word, en as daar om enige voorregte ten opsigte van die hernuwing, verplasing of oordrag van sodanige lisensie aangevra word, dan volledige besonderhede van sodanige voorregte.

(d) die ligging van die perseel waar die saak na voorneme gedryf gaan word insluitende die nommer of moontlike naam van die gebou en van die straat of pad en die nommer of ander onderskeidingsnaam van die perseel of erf;

(e) 'n beskrywing van die perseel wat vergesel moet gaan van 'n plan in tweevoud en volgens skaal geteken wat die afmetings en inrigting van die binnegebou met alle deure, vensters en buite- en binneverbindingsmiddels aantoon, sowel as die strate en plekke waartoe sulke buiteverbindingsmiddels lei: Met dien verstande dat geen sodanige plan nodig sal wees nie in die geval van enige aansoek soos genoem in paragrafe (a), (c) of (d) van sub-artikel (1) as die applikant saam met sy aansoek 'n beëdigde verklaring verstrek dat die perseel sedert sy onmiddellik voorafgaande aansoek om 'n lisensie geensins verander is nie.

(f) besonderhede van enige koopverpligting waaraan die applikant, of by die oordrag van 'n lisensie, die ontvanger ten opsigte van die handelsonderneming wat ingevolge die lisensie gedryf word, gebonde is of voornemens is hom te bind;

(g) by 'n tydelike oordrag toegeken ingevolge artikel *ses-en-veertig* of 'n verplasing gemagtig ingevolge artikel *agt-en-veertig*, die datum waarop sodanige tydelike oordrag toegeken is of sodanige verplasing gemagtig is.

(3) Elke aansoek betreffende 'n spoorwegverversingswa moet die aard en soort van die lisensie waarom toekening of hernuwing aangevra word en die spoorlyn waarop die handelsonderneming na voorneme gedryf gaan word of reeds gedryf word, uiteensit.

(4) Elkeen wat aan 'n lisensiehoër of 'n magistraat skriftelike inligting, hetsy beëdigd of andersins verstrek, wat na sy wete vals is of oor die waarheid waarvan hy nie oortuig is nie, of elkeen wat enigszins deelneem aan so 'n verstrekking van inligting, is skuldig aan 'n oortreding."

15. Artikel *sewen-en-dertig* van die hoofproklamasie word hierby gewysig deur die woorde „of om die bekrachtiging van enige tijdelijke overdracht of verplasing, of die verlening van een „voorwaardelike magtiging“ overeenkomstig artikel *vyf-en-dertig bis*“ in te voeg na die woord „licentie“.

16. Section *forty-three* of the principal Proclamation is hereby amended by the deletion of the words "subject to the provisions of section 29 hereof".

17. The following section is hereby substituted for section *fifty* of the principal Proclamation:—

"Ratification of temporary transfers or removals.

50. Any person to whom a licence may be temporarily transferred in terms of section *forty-six* and any person who has been authorised to remove his licence in terms of section *forty-eight* shall apply at the next meeting of the licensing court for ratification of such temporary transfer or removal. If the next meeting of the licensing court is the September meeting and the application is allowed by the court an endorsement shall be made on the existing licence, which shall, subject to such endorsement, be of force during the unexpired term thereof. If the next meeting of the court is the annual licensing meeting and the application is allowed by the court the person to whom such licence has been temporarily transferred or the person who has been so authorised to remove his licence may also apply for a renewal of such licence. Every application in terms of this section shall be made in writing and shall set forth the particulars mentioned in sub-section (2) of section *thirty-five*."

18. Section *fifty-two* of the principal Proclamation is hereby amended by the addition of the following words:—

"In the case of a temporary transfer an application for the renewal of the licence by the transferee shall at the request of the transferor, be deemed and taken to be an application by the transferor for such renewal. In the case of a removal the applicant shall be deemed to have applied in due form for a renewal of the licence in respect of the premises originally licensed, provided that the court may postpone consideration of the application to a date fixed by it and order such publication and giving of notice by the applicant as it may deem fit."

19. Section *sixty bis* of the principal Proclamation is hereby amended by the insertion of the following words at the beginning of the section "Subject to the provisions of this Proclamation".

20. The following section is hereby inserted in the principal Proclamation after section *sixty-five*:—

"Records to be kept.

65 bis. (1) Every holder of any liquor licence shall keep in the English or Afrikaans language such records in respect of any such licence as may be prescribed by regulation made by the Administrator.

(2) Any book, record or permit kept by any such licensee shall at all reasonable times be open to inspection by any member of the police."

21. Section *sixty-eight* of the principal Proclamation is hereby amended by the deletion in sub-section (2) of the words "any wagon or other vehicle in which it is being conveyed".

22. Section *sixty-nine* of the principal Proclamation is hereby amended by the addition of the following paragraph:—

"(12) fail to keep, or keep inadequately or improperly any record, book, or document, which by any provision of this Proclamation, or any regulation made thereunder, he is required to keep, or refuses or fails to allow any police inspection of any such record, book or document."

23. Section *seventy-two* of the principal Proclamation is hereby amended by the addition at the end thereof of the words "and liable to the penalties prescribed by section *seventy-one*" after the word "offence".

16. Artikel *drie-en-veertig* van die hoofproklamasie word hierby gewysig deur die woorde „onderhevig aan die voorzieningen van sectie 29 van deze Proclamatie" te skrap.

17. Artikel *vyftig* van die hoofproklamasie word hierby vervang met die onderstaande artikel:—

„Bekragtiging van tydelike oordragte of verplasinge.

50. Elkeen aan wie 'n lisensie ingevolge artikel *ses-en-veertig* tydelik oorgedra word, en elkeen wat gemagtig is om sy lisensie ingevolge artikel *agt-en-veertig* te verplaas moet by die daaropvolgende vergadering van die lisensiehof aansoek doen om bekragtiging van sodanige tydelike oordrag of verplasing. As die daaropvolgende sitting van die lisensiehof dié van September is, en die hof keur die aansoek goed, moet daar 'n aantekening op die bestaande lisensie gemaak word, en dan is sodanige lisensie, onderhevig aan die aantekening, van krag vir die onverstreke termyn daarvan. As die daaropvolgende vergadering van die lisensiehof sy jaarlike sitting is en die hof keur die aansoek goed, kan die persoon aan wie sodanige lisensie tydelik oorgedra is of die persoon wat aldus gemagtig is om sy lisensie te verplaas, ook aansoek doen om 'n hernuwing van sodanige lisensie. Elke aansoek ingevolge hierdie artikel moet op skrif geskied en moet die besonderhede genoem in sub-artikel (2) van artikel *vyf-en-dertig* uitsensit."

18. Artikel *twee-en-vyftig* van die hoofproklamasie word hierby gewysig deur die onderstaande woorde by te voeg:—

„By 'n tydelike oordrag word 'n aansoek deur die ontvanger om hernuwing van 'n lisensie op versoek van die oordraer beskou as en gehou vir 'n aansoek om hernuwing deur die oordraer. By 'n verplasing word daar aangeneem dat die applikant behoorlik om hernuwing van die lisensie ten opsigte van die oorspronklik gelisensieerde perseel aansoek gedoen het, met dien verstande dat die raad sy oorweging van die aansoek kan uitstel tot op 'n datum wat hy bepaal en beveel dat die applikant sodanige bekendmaking en kennisgewing soos die hof goed vind, laat geskied."

19. Artikel *sestig bis* van die hoofproklamasie word hierby gewysig deur die onderstaande woorde vooraan te voeg: „Behoudens die bepalinge van hierdie Proklamasie:"

20. Die onderstaande artikel word hierby in die hoofproklamasie na artikel *vyf-en-sestig* ingevoeg:—

„Hou van aantekeninge.

65 bis. (1) Elke houer van 'n dranklisensie moet sodanige aantekeninge in die Engelse of Afrikaanse taal ten opsigte van enige sodanige lisensie aanhou soos die Administrateur by regulasie voorskryf.

(2) Elke boek, aantekening of permit wat so 'n lisensiehouer hou, moet te alle redelike tye ter inspeksie deur enige lid van die polisie beskikbaar wees."

21. Artikel *agt-en-sestig* van die hoofproklamasie word hierby gewysig deur in sub-artikel (2) die woorde „en enige wagen of ander voertuig waarin het vervoerd word" te skrap.

22. Artikel *negen-en-sestig* van die hoofproklamasie word hierby gewysig deur die onderstaande paragraaf by te voeg:—

„(12) versuim om 'n aantekening, boek of dokument te hou, wat hy kragtens voorskrif van hierdie Proklamasie, of 'n regulasie daaringevolge, moet hou, of dit onvoldoende of onbehoorlik hou, of weier of versuim om aan die polisie insae van so 'n aantekening, boek of dokument te verleen."

23. Artikel *twee-en-sewentig* van die hoofproklamasie word hierby gewysig deur die woorde „en is onderhevig aan die straffe die artikel *een-en-sewentig* voorskryf" agteraan te voeg.

24. Section *eighty-nine* of the principal Proclamation is hereby amended by the deletion of the words "or a person lodging in the licensed house".

25. Section *ninety-five* of the principal Proclamation is hereby amended—

- (a) by the insertion after the word "house" of the words "hereinafter called a lodger"; and
- (b) by the addition of the following sub-sections, the existing section becoming sub-section (1):—

(2) No liquor intended for consumption on the licensed premises by the guest of any lodger shall be supplied to such lodger during any time when the licensee is not authorised by the licence to sell liquor unless the name and address of such guest and the name of the lodger have been written clearly and legibly in ink by such guest in a special register to be kept by the licensee for the purpose. Any licensee who supplies any such liquor contrary to the provisions of this sub-section shall be guilty of an offence.

(3) Any person who enters in a register referred to in sub-section (2) as his name or address, a name or address which is not his correct name or address, or enters as the name of a lodger whose guest he purports to be, a fictitious name or the name of a person who is not a lodger at the licensed premises in question or who has not invited him to be his *bona fide* guest, shall be guilty of an offence.

26. The following section is hereby inserted after section *one hundred and two* of the principal Proclamation:—

"Report by Police of failure of licensee to carry out condition.

102 bis. (1) It shall be the duty of the senior police officer in charge of a district to ascertain and report to the magistrate whether any condition imposed by the licensing court upon any licensee as to any structural alteration or arrangement of, or addition to, the premises in respect of which any licence has been granted or renewed or as to the accommodation to be afforded in such premises to the public, or as to any other matter whatsoever has, within any period which may have been stipulated by the court, been complied with.

(2) If it appears to the magistrate receiving any such report that any condition referred to in sub-section (1) has not fully been complied with, he shall report that fact to the Administrator, who may, in terms of section *one hundred and two* authorise the holding of a special meeting of the licensing court concerned. At least fourteen days notice of such meeting shall be given by the magistrate to the licensee concerned.

(3) At any such meeting the licensing court shall have the power forthwith to cancel the licence, or to impose such prohibition, restriction or condition as it may have imposed at an annual licensing meeting."

27. The following section is hereby inserted after section *one hundred and three*:—

"Forfeiture of seized liquor and vessels.

103 bis. (1) Any liquor or any vessel containing such liquor seized under the authority of this Proclamation or of the Criminal Procedure and Evidence Proclamation, 1935, or any amendment thereof, for the purposes of any prosecution against any person for a contravention of this Proclamation, whether a prosecution is subsequently instituted or not, shall be forfeited unless—

- (a) in the case where such liquor forms the subject of the prosecution of the person in whose possession it was seized, the court finds that the liquor was not possessed by him in contravention of any provision of this Proclamation; or

24. Artikel *negen-en-tagtig* van die hoofproklamasie word hierby gewysig deur die woorde „of niet een persoon is die in het gelicentieerde huis logeert” te skrap.

25. Artikel *vyf-en-negentig* van die hoofproklamasie word hierby gewysig—

- (a) deur die byvoeging na die woord „logeert” van die woorde „(hierna heet hij een loserder)”; en
- (b) deur die byvoeging van die onderstaande sub-artikels, sodat die bestaande artikel nou sub-artikel (1) word:

(2) Geen drank wat bedoel is om op die gelisensieerde perseel verbruik te word deur die gas van 'n loserder mag ooit op 'n tyd wanneer die lisensiehouer se lisensie dit nie veroorloof nie, aan sodanige loserder verskaf word nie, tensy die naam en adres van sodanige gas, en die naam van sodanige loserder duidelik leesbaar met ink in 'n spesiale register wat die lisensiehouer daarvoor aanhou, deur sodanige gas aangeteken is. Elke lisensiehouer wat enige sodanige drank strydig met die bepaling van hierdie sub-artikel verskaf, is skuldig aan 'n oortreding.

(3) Elkeen wat in 'n register genoem in sub-artikel (2) 'n naam of adres wat nie sy regte naam of adres is nie, of wat daarin 'n fiktiewe naam of die naam van iemand wat nie by die betrokke gelisensieerde perseel loseer nie, of wat hom nie *bona fide* as gasheer uitgenodig het nie, inskryf as sou dit die naam van sy gasheer wees, is skuldig aan 'n oortreding.

26. Die onderstaande artikel word hierby na artikel *eenhonderd-en-twee* van die hoofproklamasie ingevoeg:—

„Verslag deur polisie oor versuim van lisensiehouer om voorwaardes na te kom.

102 bis. (1) Dit is die plig van die senior bevelvoerende polisie-offisier in elke distrik om vas te stel of enige voorwaarde wat 'n lisensiehouer 'n lisensiehouer opgelê het betreffende die verbouing of bou-reeëling van, of byvoeging aan, 'n perseel waarvoor 'n lisensie toegeken of hernuwe is, of betreffende die plaasruimte wat sodanige perseel aan die publiek moet aanbied, of betreffende enige ander saak hoegenaamd binne 'n tydperk wat die hof vasgestel het, nagekom is, en verslag daaroor aan die magistraat te doen.

(2) As dit vir die magistraat wat sodanige verslag ontvang, lyk asof 'n voorwaarde genoem in sub-artikel (1) nie ten volle nagekom is nie, moet hy verslag daaroor doen aan die Administrateur, wat ingevolge artikel *eenhonderd-en-twee* die hou van 'n spesiale vergadering van die betrokke lisensiehouer kan magtig. Die magistraat moet die betrokke lisensiehouer minstens veertien dae kennis van so 'n sitting gee.

(3) By so 'n sitting kan die lisensiehouer onmiddellik die lisensie intrek of sodanige verbod, beperking of voorwaarde ophê soos hy moontlik op 'n jaarlikse lisensie-vergadering sou opgelê het."

27. Die onderstaande artikel word hierby na artikel *eenhonderd-en-drie* ingevoeg:—

„In beslag-genome drank en houers word verbeur.

103 bis. (1) Enige drank en enige houer wat sodanige drank bevat, wat ingevolge hierdie Proklamasie of ingevolge die „Kriminele Procedure en Bewyslewing Proklamasie 1935" of enige wysiging daarvan in beslag geneem word ter vervolging van enigiemand weens 'n oortreding van hierdie Proklamasie, word verbeur (of daar later 'n vervolging ingestel word, al dan nie) tensy—

- (a) die hof (in gevalle waar sodanige drank die onderwerp is van die vervolging van die persoon in wie se besit dit in beslag geneem is) bevind dat sodanige drank geensins strydig met enige bepaling van hierdie Proklamasie besit is nie; of

(b) in any other case if the person from whom such liquor was taken proves within thirty days of the seizure to the satisfaction of the Administrator that the possession of it by himself or any other person was not unlawful.

(2) Any liquor or vessel so forfeited may be sold or destroyed, or dealt with in such other manner as the Administrator may direct."

28. Section one of the "Brewers and Distillers Licences Duty Proclamation, 1924" (Proclamation 3 of 1924), as amended, is hereby further amended—

- (a) by the deletion in sub-paragraph II of paragraph (a) of the words "but, except as hereinafter provided, not from any depot situated elsewhere";
- (b) by the repeal of both provisos to the said sub-paragraph II; and
- (c) by the deletion in the said sub-paragraph II of all the words after the word "Proclamation" where it occurs for the second time in the second proviso.

29. All licences issued under the provisions of sub-paragraph II of paragraph (a) of Section one of the "Brewers and Distillers Licences Duty Proclamation, 1924" (Proclamation 3 of 1924), as amended, providing for the holders of a Special Brewers Wholesale Licence to sell or supply the product of his manufacture from a depot, and in this Ordinance called a special brewers wholesale depot licence, which may not have expired at the commencement of this Ordinance, shall until their expiry on the 31st March, 1953 be dealt with and judged of in respect of the sales and dealings which they authorise and the rights and liabilities of the holders thereof and of all persons in relation to such sales and dealings as if the provisions of the said Proclamation as amended and repealed by section twenty-eight of this Ordinance still remained in force: Provided that nothing in this section contained shall be construed so as to affect the operation of the provisions of section sixty-five bis of the principal Proclamation as inserted by section twenty of this Ordinance: Provided further that notwithstanding anything in section one of "Brewers and Distillers Licences Duty Proclamation, 1924", as amended, contained, no sales from a depot by the holder of a Special Brewers Wholesale Licence shall be permitted on Day of the Covenant.

30. The Second Schedule to the principal Proclamation is hereby amended —

- (a) by the insertion in paragraph (6) after the words "bottle licence" of the words "special brewers wholesale depot licence"; and
- (b) by the addition of the following paragraph:—
“(10) For a special brewers wholesale depot licence for one year £10.”

31. This Ordinance shall be called the Liquor Licensing Amendment Ordinance, 1952.

(b) in elke ander geval, tensy die persoon van wie sodanige drank geneem is, binne dertig dae na sodanige inbeslagname ten genoë van die Administrateur bewys lewer dat die besit van sodanige drank deur hom of deur enigiemand anders geensins wederregtelik was nie.

(2) Enige aldus verbeurde drank of houcr kan verkoop of vernietig word, of daar kan andersins daaroor besik word, al na die Administrateur bevel."

28. Artikel een van die „Brouwers en Distilleerders Licentie Belasting Proklamatie 1924" (Proklamatie 3 van 1924), soos gewysig, word hierby nogmaals gewysig—

- (a) deur in sub-paragraaf II van paragraaf (a) die woorde „doch, behalwe zoals hierna bepaald, niet vanaf enige depôt op een andere plaats gelegen" te skrap;
- (b) deur beide voorbehoudsbepalings van genoemde sub-paragraaf II te herroep; en
- (c) deur in die genoemde sub-paragraaf II, al die woorde na die woord „Proklamatie", waar dit vir die tweede keer in die tweede voorbehoudsbepaling voorkom, te skrap.

29. Elke lisensie uitgereik ingevolge die bepaling van sub-paragraaf II van paragraaf (a) van artikel een van die „Brouwers en Distilleerders Licentie Belasting Proklamatie 1924" (Proklamatie 3 van 1924), soos gewysig, wat die houers van 'n spesiale groothandelsensie vir bierbrouers toelaat om die produk van sy vervaardiging uit 'n depôt te verkoop of te verskaf, wat in hierdie Ordonnansie 'n spesiale groothandel-depôtisensie vir bierbrouers heet en wat moontlik by die inwerkingtreding van hierdie Ordonnansie nog nie verstryk het nie, moet ten opsigte van die verkope en transaksies wat so 'n lisensie magtig, sowel as die regte en verpligtinge van die houers daarvan en van elke betrokke van sodanige verkope en transaksies, tot dat dit op 31 Maart 1953 verstryk, behandel en bereg word asof die bepaling van die genoemde Proklamatie, wat by artikel agt-en-twintig van hierdie Ordonnansie gewysig en herroep word, steeds bly geld: Met dien verstande dat geen bepaling van hierdie artikel inbreuk maak op die werking van die bepaling van artikel vyf-en-estig bis van die hoofproklamatie soos ingevoeg by artikel twintig van hierdie Ordonnansie nie: Met dien verstande voorts, dat die bepaling van artikel een van die „Brouwers en Distilleerders Licentie Belasting Proklamatie 1924", soos gewysig, ten spyt, die houcr van 'n spesiale groothandelsensie vir bierbrouers op Geloftedag geen verkope vanuit 'n depôt mag doen nie.

30. Die Tweede Bylae van die hoofproklamatie word hierby gewysig —

- (a) deur na die woord „bottellicentie" in paragraaf (6) die woorde „of een spesiale groothandeldepôt licentie voor bierbrouers" in te voeg; en
- (b) deur die onderstaande paragraaf by te voeg:—
“(10) Vir 'n spesiale groothandeldepôtisensie vir bierbrouers vir een jaar £10.”

31. Hierdie Ordonnansie heet die Wysigingsordonnansie op Dranklisensies 1952.

No. 48 of 1952.]

ORDINANCE

To establish a Society of South West African Farmer-Employers of contracted Extra-Territorial or Northern Natives, to make provision for contributions and the purchase of Shares in the South West Africa Native Labour Association of South West Africa, the establishment, if necessary, of a second society on similar lines, and for matters incidental thereto.

(Assented to 24th November, 1952.)
(English text signed by the Administrator.)

WHEREAS the South West Africa Native Labour Association (Pty.) Ltd., (hereinafter called "the Company"), whose main object is to recruit Extra-Territorial and Northern Natives and contract them to employers, has agreed to change its name to "New South West Africa Native Labour Association (Pty.) Ltd., — Nuwe S.W.A.-N.L.A.;"

AND WHEREAS it is desirable and expedient to form a Society of South West African Farmer-Employers of Contracted Extra-Territorial or Northern Natives (hereinafter called "the Society"), and to obtain representation by the Society on the Board of Management of the Company;

AND WHEREAS the Company has agreed to make provision for the representation of the Society on its Board of Management (hereinafter called "the Board") and for the representation of the other employers of contracted Extra-Territorial and/or Northern Natives, if and when the Administrator deems that circumstances warrant such representation;

AND WHEREAS the Company has agreed that until the Administrator deems that circumstances warrant such representation, the Administration shall be represented by one member nominated by him who shall represent, on the Board, the interests of employers of contracted Extra-Territorial and/or Northern Natives, other than those engaged in farming and mining;

AND WHEREAS the Company has agreed to increase the Board from two to five members, two of whom shall represent the original shareholders of the Company, two of whom shall represent the Society and the fifth of whom shall represent the interests of employers of contracted Extra-Territorial and/or Northern Natives, other than those engaged in farming or mining, or other employers of contracted Extra-Territorial and/or Northern Natives, as the case may be;

No. 48 van 1952.]

ORDONNANSIE

Ter stigting van 'n Suidwes-Afrikaanse vereniging van boerewerkgewers van gekontrakteerde ekstra-territoriale of noordelike Inboorlinge; ter reëling van hydralewering tot, en die koop van aandele in, die *South West Africa Native Labour Association* van Suidwes-Afrika, en van die stigting, indien nodig, van 'n tweede soortgelyke vereniging, en verbandhoudende aangeleenthede.

(Goedgekeur 24 November 1952.)
(Engelse teks deur die Administrateur geteken.)

NADEMAAL die *South West Africa Native Labour Association (Pty.) Ltd.* (hierna genoem „die Maatskappy”), waarvan dit die hoofdoel is om ekstra-territoriale en noordelike Inboorlinge aan te werf en aan werkgewers te kontrakteer, ingestem het om sy naam te verander na „*New South West Africa Native Labour Association (Pty.) Ltd.* — Nuwe S.W.A.N.L.A.”;

EN NADEMAAL dit wenslik is om 'n vereniging te stig van Suidwes-Afrikaanse boerewerkgewers van gekontrakteerde ekstra-territoriale of noordelike Inboorlinge (hierna genoem „die Vereniging”) en om vir so 'n vereniging verteenwoordiging te verkry op die bestuurraad van die Maatskappy;

EN NADEMAAL die Maatskappy ingestem het om die verteenwoordiging te reël van die Vereniging op sy bestuurraad (hierna genoem „die raad”) en van die ander werkgewers van gekontrakteerde ekstra-territoriale en/of noordelike Inboorlinge wanneer die Administrateur meen dat die omstandighede sodanige verteenwoordiging regverdig;

EN NADEMAAL die Maatskappy ingestem het dat die Administrasie op sy raad verteenwoordig kan word deur een lid wat die Administrateur benoem en wat in die raad optree namens die werkgewers van gekontrakteerde ekstra-territoriale en/of noordelike Inboorlinge in bedrywe buiten die boerdery en die mynbedryf tot tyd en wyl die omstandighede, na die mening van die Administrateur, sodanige verteenwoordiging regverdig;

EN NADEMAAL die Maatskappy ingestem het om sy raad van twee tot vyf lede te vermeerder, van wie twee die oorspronklike aandeelhouders van die Maatskappy verteenwoordig, twee die Vereniging, en die vyfde die belange van werkgewers van ekstra-territoriale en/of noordelike Inboorlinge in bedrywe buiten die boerdery en die mynbedryf of van ander werkgewers van gekontrakteerde ekstra-territoriale en/of noordelike Inboorlinge, na gelang;

AND WHEREAS the Company has agreed that the Society, in order to obtain representation as aforesaid on the Board, shall purchase nineteen thousand five hundred shares in the company at a pound a share, on the basis of one member of the Board for every nine thousand seven hundred and fifty shares so purchased;

AND WHEREAS the Company has agreed that the Administration in order to obtain representation as aforesaid on the Board shall purchase nine thousand seven hundred and fifty shares in the company at a pound a share;

NOW THEREFORE, BE IT ORDAINED by the Legislative Assembly of the Territory of South West Africa, with the consent of the Governor-General, in so far as such consent is necessary, previously obtained and communicated to the Legislative Assembly by message from the Administrator in accordance with the provisions of section *twenty-six* of the South West Africa Constitution Act, 1925, of the Parliament of the Union of South Africa, as follows:—

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

“contracted” means contracted through the South West Africa Native Labour Association (Pty.) Ltd., or the New South West Africa Native Labour Association (Pty.) Ltd. — Nuwe S.W.A.N.L.A. upon its change of name, and attested under the provisions of the Master and Servants Proclamation, 1920 (Proclamation 34 of 1920), or in accordance with the provisions of Proclamation 3 of 1917, as amended;

“Company” means the South West Africa Native Labour Association (Pty.) Ltd. — (New South West Africa Native Labour Association (Pty.) Ltd. — Nuwe S.W.A.N.L.A., upon its change of name);

“Native” means an Extra-Territorial or a Northern Native as defined in section *one* of the Extra-Territorial and Northern Natives Control Proclamation, 1935 (Proclamation 29 of 1935);

“Central Registry of Extra-Territorial and Northern Natives” means the register established under the provisions of section *four* of the Extra-Territorial and Northern Natives Control Proclamation, 1935 (Proclamation 29 of 1935), as amended;

“Regulations” means those published under the provisions of section *fourteen* hereof.

2. (1) As from a date to be fixed by the Administrator by notice in the *Official Gazette* there shall be established a Society of South West African Farmer-Employers of Contracted Natives (hereinafter referred to as the Society) which Society shall be a body corporate capable of suing and being sued in its corporate name and, subject to the provisions of this Ordinance, of performing all such acts as are necessary for, or incidental to the carrying out of its objects and the performance of its functions.

(2) The objects of the Society shall be—

- (a) to purchase 19,500 shares in the Company;
- (b) to obtain representation of two members on the Board of the Company, and
- (c) to make provision for all matters necessary for the giving of full effect to the above objects.

3. (1) The Society shall consist of all *bona fide* farmers resident in South West Africa whose names, on the date fixed under the provisions of sub-section (1) of section *two* and thereafter from time to time, appear in the Central Registry of Extra-Territorial and Northern Natives or in the records of the Company, or in both, as having contracted natives in their employ, and who have, on or before the date fixed under the provisions of sub-section (1) of section *two*, paid an amount of £2 to the Secretary of the Society appointed in terms of section *five* hereof, and the Secretary of the Society shall compile a register of the names of all persons who in terms of sub-section (1) hereof have become members and this register shall be available to the Company.

EN NADEMAAL die Maatskappy ingestem het dat die genoemde Vereniging, ten einde die bogenoemde verteenwoordiging op die raad te verkry, negentienduisend vyftiendertig aandeel teen 'n nominale waarde van een pond per aandeel in die Maatskappy kan aankoop, op 'n grondslag van een lid van die raad vir elke negentiendertig aandeel teen vyftig aandeel wat aldus aangekoop word;

EN NADEMAAL die Maatskappy ingestem het dat die Administrasie ten einde die voormelde verteenwoordiging op die raad te verkry, negentiendertig aandeel teen die nominale waarde van een pond per aandeel sal aankoop;

SO IS DIT dat die Wetgewende Vergadering van die Gebied Suidwes-Afrika, met die toestemming van die Gowerneur-generaal, dermate sodanige toestemming nodig is, vooraf verkreeë en deur boodskap van die Administrateur aan die Wetgewende Vergadering meegedeel ooreenkomstig die bepaling van artikel *ses-en-twintig* van die „Zuidwest-Afrika Konstitusie Wet 1925” van die Parlement van die Unie van Suid-Afrika, VERORDEN:—

1. In hierdie Ordonnansie, tensy dit strydig is met die sinsverband, beteken—

„gekонтрактер” gekонтрактер deur die *South West Africa Native Labour Association (Pty.) Ltd.*, of die *New South West Africa Native Labour Association (Pty.) Ltd.* — Nuwe S.W.A.N.L.A., na sy naamsverandering, en bevestig ooreenkomstig die bepaling van die „Meesters en Bedienden Proklamasie, 1920” (Proklamasie 34 van 1920), of ooreenkomstig die bepaling van Proklamasie 3 van 1917, soos gewysig;

„Maatskappy” die *South West Africa Native Labour Association (Pty.) Ltd.* — (*New South West Africa Native Labour Association (Pty.) Ltd.* — Nuwe S.W.A.N.L.A., na sy naamsverandering);

„Inboorling” elke ekstra-territoriale en noordelike Inboorling soos bepaal by die „Extra-Territoriale en Noordelike Inboorlinge Kontrole Proklamasie 1935” (Proklamasie 29 van 1935);

„Sentrale Register van ekstra-territoriale en noordelike Inboorlinge” die register ingestel ingevolge artikel *vier* van die „Extra-Territoriale en Noordelike Inboorlinge Kontrole Proklamasie 1935” (Proklamasie 29 van 1935) soos gewysig;

„regulasies” die regulasies wat ingevolge artikel *veertien* hiervan afgekondig word.

2. (1) Op 'n datum wat die Administrateur by kennisgewing in die *Offisiele Koerant* bepaal, word daar 'n Suidwes-Afrikaanse Vereniging van Boerewerkgewers van Kontrak-inboorlinge gestig (hierna genoem „die Vereniging”) en die Vereniging is 'n regs persoon wat in sy regspersoonlike naam kan eis en verweer, en wat, onderhewig aan die bepaling van hierdie Ordonnansie, enigiets kan doen wat nodig blyk vir, of in verband staan met, die uitvoering van sy oogmerke en die verrigting van sy werksaamhede.

(2) Die Vereniging stel hom ten doel—

- (a) die aankoop van 19,500 aandeel in die Maatskappy;
- (b) die verkryging van twee verteenwoordigers op die raad van die Maatskappy, en
- (c) om voorsiening te maak vir alle aangeleenthede nodig geag vir die volkome uitvoering van die bestaande oogmerke.

3. (1) Alle *bona fide* boere wat in Suidwes-Afrika woon, en wie se name op die datum bepaal ingevolge sub-artikel (1) van artikel *twee* en daarna van tyd tot tyd in die Sentrale Register van ekstra-territoriale en noordelike Inboorlinge of in die rekords van die Maatskappy, of van albei, verskyn as persone wat Kontrak-inboorlinge in hulle diens het en wat, voor of na die datum bepaal ingevolge sub-artikel (1) van artikel *twee*, £2 aan die sekretaris van die Vereniging, aangestel ingevolge artikel *vyf* hiervan, betaal het, is lede van die Vereniging en die sekretaris van die Vereniging moet 'n register opstel van almal wat ingevolge sub-artikel (1) hiervan lede geword het en die register moet vir die Maatskappy toeganklik wees.

(2) Every *bona fide* farmer whose name on the date fixed under the provisions of sub-section (1) of section two does not appear in the Central Registry of Extra-Territorial and Northern Natives or in the records of the Company, or if his name does so appear but he has not paid the £2, as aforesaid, shall before or when submitting his initial application for a native or natives pay an amount of £2 to the secretary of the Society and shall thereupon become a member of the Society.

(3) Every person who becomes a member of the Society in terms of sub-section (1) or (2) hereof shall retain his membership until he resigns, dies or loses his membership for reasons to be prescribed in the regulations.

4. (1) The affairs of the Society shall be conducted and managed by a Committee of three members of the Society who shall be elected by vote of members of the Society in terms of the Regulations, and who shall be appointed for a period of two years: Provided that those two members of the Committee who shall have received the highest number of votes at the election shall be nominated by the Society as its members on the Board of the Company: Provided further that in the event of the death, illness or inability of either of the Society's members to attend meetings of the Board of the Company, the third member of the Committee of the Society shall become his alternate on the Board.

(2) (a) The office of the Society shall be at Grootfontein, or at such other place as may be decided by the Committee of the Society.

(b) Any document relating to the affairs of the Society which requires signature, verification or confirmation, shall be signed by one member of the Committee and the Secretary of the Society.

5. The Administrator shall, on the date fixed under sub-section (1) of section two hereof, appoint a secretary to the Society who shall be remunerated out of funds mentioned in section seven hereof and who shall be responsible to the Committee of the Society elected in terms of section four hereof.

In addition to any other duties which may be assigned to him in terms of the regulations, he shall be the returning officer in respect of, and officer responsible for, the election of members of the committee of the Society:

Provided that if the secretary appointed is a public servant, his remuneration as secretary to the Society shall be paid into the Territory Revenue Fund.

6. The Administration shall, out of monies at its disposal, advance free of interest to the Society, but subject to such conditions as it may deem fit, an amount of £19,500 to enable the Society to purchase 19,500 shares in the Company and thus to obtain representation of two members on the Board of the Company.

7. The Administration shall, out of monies at its disposal, supply the Society with funds annually to enable it to meet any expenses which it may incur in the conduct of its affairs, subject to estimates being submitted to, and approved by, the Secretary for South West Africa.

8. The Administration shall, out of monies at its disposal, pay an amount of £9,750 for the purchase of 9,750 shares in the Company to obtain representation of one member on the Board of the Company.

Provided that until an additional society is established in accordance with the provisions of section twelve, the Administrator shall delegate the Administration's right to nominate a representative on the Board of the Company whenever necessary to the four other members of the Board of the Company, namely the two members representing the original shareholders and the two members representing the Society.

In the event of these members failing, within a reasonable period to be specified by the Administrator, to agree on who shall be nominated as the fifth member of the Board of the Company, the right of nominating that person shall revert to the Administrator, who shall exercise such right forthwith. The fifth member whether nominated by agreement of the other members or by the Administrator, as the case may be, shall represent the interests of employers of contracted natives other than those engaged in farming or mining and shall hold office until the next nomination of representatives of the Society on the Board of the Company.

(2) Elke *bona fide* boer wie se naam op die datum bepaal ingevolge sub-artikel (1) van artikel twee nie in die Sentrale Register van ekstra-territoriale en noordelike Inboorlinge of in die rekords van die Maatskappy verskyn nie, of wie se naam wel daarin verskyn maar nog nie die £2, soos voormeld, betaal het nie, moet voor of by sy eerste aansoek om 'n Inboorlinge, 'n bedrag van £2 aan die sekretaris van die Vereniging betaal, en daarop word hy 'n lid van die Vereniging.

(3) Elkeen wat ingevolge sub-artikel (1) of (2) hiervan lid van die Vereniging word, bly lid tot dat hy bedank, sterf of om ander redes, in die regulasies voorgeskryf, sy lidmaatskap verbeur.

4. (1) Die Vereniging se sake word behartig en bestuur deur 'n komitee van drie Verenigingslede met 'n aanpstermyn van twee jaar, wat ingevolge die regulasies deur stemming van hul mede-lede gekies word: Met dien verstande dat die Vereniging die twee komitee-lede wat by die verkiesing die meeste stemme gekry het, as sy verteenwoordigers op die Maatskappy se Bestuurraad moet benoem: Met dien verstande voorts dat as een van die verteenwoordigers weens dood, siekte of onbekwaamheid nie die Maatskappy se Bestuursvergaderings kan bywoon nie, die derde komitee-lid van die Vereniging sy plek op die raad moet vul.

(2) (a) Die Vereniging se kantoor word op Grootfontein, of elders soos sy Komitee mag besluit, gevestig.

(b) Elke dokument betreffende die Vereniging se sake wat onderteken, gewaarmerk of bekragtig moet word, moet deur een van die komitee-lede en die sekretaris van die Vereniging onderteken word.

5. Op die datum bepaal ingevolge sub-artikel (1) van artikel twee hiervan stel die Administrateur 'n sekretaris van die Vereniging aan wat besoldig word uit die gelde genoem in artikel sewe hiervan en wat verantwoordig moet doen aan die komitee van die Vereniging wat ingevolge artikel vier hiervan verkies word.

Buiten en behalwe ander pligte wat hom ingevolge die regulasies opgelê word, moet die sekretaris die verkiesing van die Vereniging se komitee-lede reël, en is hy die kiesbeaamte: Met dien verstande dat as die aangestelde sekretaris 'n staatsampenaar is, sy besoldiging as sekretaris van die Vereniging in die Gebiedsinkomstefonds gestort moet word.

6. Uit beskikbare gelde skiet die Administrasie, op voorwaarde na goedgevnde, £19,500 rentevry aan die Vereniging voor sodat die Vereniging 19,500 aandele in die Maatskappy kan koop, en aldus twee verteenwoordigers op die Bestuurraad van die Maatskappy kan verkry.

7. Uit beskikbare gelde verskaf die Administrasie jaarliks die middele waarmee die Vereniging sy werk-uitgaaf besty, mits die Vereniging 'n begroting aan die Sekretaris van Suidwes-Afrika voorle en hy dit goedkeur.

8. Uit beskikbare gelde sal die Administrasie 9,750 aandele in die Maatskappy koop teen £9,750 ter verkryging van een verteenwoordiger op die Maatskappy se Bestuurraad:

Met dien verstande dat tot tyd en wyl daar ingevolge artikel twaalf 'n tweede vereniging gestig is, die Administrateur, waar nodig, die Administrasie se reg om 'n verteenwoordiger op die Maatskappy se Bestuurraad te benoem, moet oordra aan die vier ander Bestuursraadslede, dit wil sê, aan die twee lede wat die oorspronklike aandelehouers verteenwoordig, en aan die twee lede wat die Vereniging verteenwoordig.

Het hierdie lede binne 'n redelike tyd, bepaal deur die Administrateur, nog nie ooreengekom wie as vyfde lid op die raad van die Maatskappy benoem moet word nie, keer sodanige benoemingsreg tot die Administrateur terug, en oefen hy dit onverwyl uit. Die vyfde lid wat, na gelang, of by ooreenkomst deur die ander vier lede of deur die Administrateur benoem is, treë namens die werkgewers van kontrakinboorlinge op (uitgesonderd die boerdery en die mynbedryf) en beklee sy amp tot die volgende benoeming van verteenwoordigers van die Vereniging op die Raad van die Maatskappy.

Provided further that in the event of an additional society being established and having purchased the shares in accordance with the provisions of section *twelve*, the term of office of such fifth member shall forthwith cease with its establishment and the right of the Administrator to a representative on the Board of the Company shall also forthwith cease.

9. The accounts of the Society shall be subject to audit by the staff of the Controller and Auditor-General.

10. The financial year of the Society shall coincide with that of the Administration of South West Africa.

11. Any revenue of the Society shall be appropriated firstly to the redemption of the loan mentioned in section *six* of this Ordinance and thereafter to a reserve fund of the Company which shall be established as soon as the loan mentioned in section *six* has been redeemed.

12. (1) Should the Administrator deem that circumstances warrant direct representation on the Company's Board of Management in favour of the other employers of contracted natives, he shall establish on such terms and conditions as he may by regulation prescribe, as from a date to be fixed by him by notice in the *Official Gazette*, an additional society whose object shall be to obtain representation on the Board of Management of the Company by the purchase, for the sum of £9,750, of the Administrator's 9,750 shares mentioned in section *eight*.

(2) Such additional society shall be empowered to raise the funds necessary for the purchase of the said shares in any manner approved by the Administrator.

13. (1) Every person resident in South West Africa shall, before or when making an initial application to the Company for a contracted native on or after the date fixed in sub-section (1) of section *two*, pay an amount of £2 to a Receiver or Sub-Receiver of Revenue.

(2) The amounts paid in terms of this section shall be held in trust by the Administration for the additional Society which may be established in terms of section *twelve*.

(3) The provisions of sub-section (1) hereof shall not apply to *bona fide* farmers, to mining companies, to the various Departments and Branches of the Administration and the Union Government, including the Railways and Harbours Administration.

14. The Administrator may by notice in the *Official Gazette* make regulations providing for—

- (1) The removal of the Society's members on the Board of the Company or the fifth member of the Board, for serious disabilities or for convictions for crimes involving dishonesty or moral turpitude.
- (2) The voting powers of members, the mode of election of committee members of the Society, and the conditions governing their tenure of office.
- (3) The removal or replacement of committee members.
- (4) The method of accounting for contributions received on behalf of the Society or Societies, as the case may be.
- (5) The rendering of returns by the Society or Societies as the case may be.
- (6) The terms and conditions governing the establishment of an additional society of employers of contracted natives.
- (7) All matters deemed necessary for the administration of, and for giving full effect to, the provisions of this Ordinance.

15. This Ordinance shall be called the Societies of Employers of Contracted Natives Ordinance, 1952.

Met dien verstande voorts dat as daar 'n tweede vereniging gestig word, en so 'n vereniging ingevolge artikel *twaaft* aandeel koop, sowel die ampstermyn van so 'n vyfde lid as ook die Administrateur se reg om 'n verteenwoordiger op die Maatskappy se raad te benoem, verstryk sodra die stigting plaasvind.

9. Die Vereniging se rekenings is onderhewig aan auditing deur die personeel van die Kontroleur en Ouditeur-generaal.

10. Die Vereniging se boekjaar moet saamval met die boekjaar van die Administrasie van Suidwes-Afrika.

11. Die Vereniging se inkomste word alreeds aangewend ter delging van die lening wat artikel *ses* van hierdie Ordonnansie noem, en daarna ter stywing van die Maatskappy se reserwefonds wat geskep word sodra die lening genoem in artikel *ses* gedelig is.

12. (1) Wanneer die Administrateur meen dat die omstandighede die regstreekse verteenwoordiging van die ander werkgewers van kontrakinboorlinge op die Maatskappy se raad regverdig, stig hy op bepalings en voorwaardes wat hy by regulasie voorskryf, en met ingang van 'n datum wat hy by kennisgewing in die *Offisiële Koerant* bepaal, 'n tweede vereniging wat hom ten doel stel die verkryging van verteenwoordiging op die Maatskappy se Bestuursraad deur middel van die aankoop van die Administrasie se 9,750 aandeel, genoem in artikel *agt*, teen £9,750.

(2) So 'n tweede vereniging kan die geld om die bedoelde aandeel mee te koop, op enige wyse wat die Administrateur goedkeur, insaam.

13. (1) Elke inwoner van Suidwes-Afrika moet voor of by sy eerste aansoek aan die Maatskappy om 'n Kontrakinboorling, op of na die datum bepaal in sub-artikel (1) van artikel *twee*, 'n bedrag van £2 aan 'n Ontvanger van Inkomste of 'n Sub-Ontvanger van Inkomste betaal.

(2) Die bedrag betaal ingevolge hierdie artikel, moet deur die Administrasie in bewaring gehou word, vir die addisionele vereniging wat ingevolge artikel *twaaft* gestig mag word.

(3) Die bepalings van sub-artikel (1) hiervan is nie van toepassing op *bona fide* boere nie, nóg op myn-maatskappye nie, nóg op die verskeie Departemente en Afdelings van die Administrasie en die Unie-Regering insluitende sy Departement van Spoorweë en Havens nie.

14. By kennisgewing in die *Offisiële Koerant* kan die Administrateur regulasies afkondig ter reëling van—

- (1) Die ontslag van die Vereniging se verteenwoordigers in die Maatskappy se Bestuursraad of die vyfde lid van die Raad, weens ernstige onbevoegdheid of veroordelings vanweë misdade waarby oerdelikheid of onsedelikheid betrokke was.
- (2) Die stemreg van lede, die wyse waarop die Vereniging se komitee-lede verkies moet word, en die voorwaardes van hul ampsbekleding.
- (3) Die ontslag of vervanging van komitee-lede.
- (4) Die wyse waarop daar boekgehou moet word van bydraes ten behoewe van die Vereniging of Verenigings, na gelang.
- (5) Die verstrekking van opgawes deur die Vereniging of Verenigings, na gelang.
- (6) Die bepalings en voorwaardes van die stigting van 'n tweede vereniging van werkgewers van kontrakinboorlinge.
- (7) Elke ander saak wat hy nodig ag ter behoorlike administrasie en volkome uitvoering van hierdie Ordonnansie se bepalings en oogmerke.

15. Hierdie Ordonnansie heet die Ordonnansie op Verenigings van Werkgewers van Kontrakinboorlinge 1952.