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# OFFICIAL GAZETTE

EXTRAORDINARY  
OF SOUTH WEST AFRICA.



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UITGAWE OP GESAG.

VAN SUIDWES-AFRIKA.

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No. 46, 1955.]

# ACT

## To amend the Births, Marriages and Deaths Registration Act, 1923.

(Afrikaans text signed by the Governor-General.)  
(Assented to 20th June, 1955.)

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

### Definitions.

1. In this Act, "principal Act" means the Births, Marriages and Deaths Registration Act, 1923 (Act No. 17 of 1923), and any expression to which a meaning has been assigned in the principal Act bears the meaning so assigned thereto.

### Amendment of section 1 of Act 17 of 1923.

2. (1) Section *one* of the principal Act is hereby amended—

- (a) by the substitution in sub-section (1) for the words "in respect of each province an officer to be styled the registrar" of the words "an officer to be styled the registrar-general"; and
- (b) by the substitution for sub-section (2) of the following sub-section:

"(2) The Minister may from time to time, subject to the provisions of the law governing the public service, appoint—

- (a) an officer to be styled the registrar of births, marriages and deaths, to whom the registrar-general may delegate any function assigned to him under this Act or any other law;
- (b) one or more officers to be styled assistant registrars of births, marriages and deaths who may, subject to the directions and control of the registrar and subject to regulations, do anything which may lawfully be done by the registrar."

(2) Anything performed prior to the commencement of this Act by the registrar of births, marriages and deaths of any province shall be deemed to have been performed by the registrar-general, and any act which prior to such commencement could have been performed, but has not been performed, by the registrar of births, marriages and deaths of any province, shall be performed by the registrar-general.

### Amendment of section 2 of Act 17 of 1923.

3. Section *two* of the principal Act is hereby amended by the substitution for sub-sections (1) and (2) of the following sub-sections:

"(1) The Minister or any person authorized thereto by him may from time to time—

- (a) designate for each of the magisterial districts of the Union or for any areas therein, officers in the public service as district registrars of births and deaths in respect of persons of all classes or races or of specified classes or races or of all classes or races other than specified classes or races;
- (b) designate officers in the public service as assistant district registrars of births and deaths or, where no such officers are available, appoint persons as assistant district registrars of births and deaths.

(2) Where no district registrar has been designated for any district or any part thereof, the magistrate of such district shall *ex officio* be the district registrar: Provided that if a native commissioner has been appointed for any such district or such part thereof, he shall be *ex officio* district registrar in respect of natives and the magistrate shall be district registrar in respect of persons of all other races."

Amendment of section 6 of Act 17 of 1923 as amended by section 1 of Act 5 of 1943.

4. Section *six* of the principal Act is hereby amended by the substitution for the word "registrar" of the word "registrar-general".

Amendment of section 7 of Act 17 of 1923 as substituted by section 2 of Act 7 of 1934.

5. Section *seven* of the principal Act is hereby amended by the substitution for the words "registrar of the province in which his birth was registered", and for the word "registrar" where it occurs for the second time, of the word "registrar-general".

Amendment of section 8 of Act 17 of 1923 as substituted by section 3 of Act 7 of 1934 and amended by section 2 of Act 5 of 1943.

6. Section *eight* of the principal Act is hereby amended by the substitution in sub-section (1) for the words "registrar of the province wherein his birth was registered", and for the word "registrar" where it occurs for the second time, of the word "registrar-general".

Amendment of section 10 of Act 17 of 1923 as substituted by section 4 of Act 7 of 1934.

7. Section *ten* of the principal Act is hereby amended by the substitution in sub-section (1) for the words "registrar of the province wherein his birth was registered", and for the word "registrar" where it occurs for the second time, of the word "registrar-general".

Substitution of section 13 of Act 17 of 1923.

8. The following section is hereby substituted for section *thirteen* of the principal Act:

"Burial register to be kept. 13. (1) The custodian or person having the charge or control of any burial place shall keep a book to be called the 'burial register' in which he shall enter the prescribed particulars regarding every burial in such burial place.

(2) The custodian or person aforesaid shall produce such book for inspection whenever so required by the district registrar."

Amendment of section 14 of Act 17 of 1923.

9. Section *fourteen* of the principal Act is hereby amended by the substitution for the words "frame the returns required by" of the words "make the required entries in the burial register referred to in".

Amendment of section 16 of Act 17 of 1923.

10. Section *sixteen* of the principal Act is hereby amended by the substitution for the words "any province" of the words "the Union", and for the words "registrar of such province" of the word "registrar-general".

Insertion of section 24bis in Act 17 of 1923.

11. The following section is hereby inserted in the principal Act after section *twenty-four*:

"Issue of burial orders in other cases. 24bis. In any case not provided for in any of the preceding sections the magistrate shall give an order authorizing burial as soon as he is satisfied that the body in question is no longer required for the purposes of an inquest or other proceeding."

Insertion of section 36 in Act 17 of 1923.

12. (1) The following section is hereby inserted in the principal Act after section *thirty-five*:

"Registra- 36. The receipt by a district registrar or an tion of assistant district registrar of any return transmitted births and deaths occurring on board ship. in terms of sub-section (2) of section *one hundred and eighty-nine* of the Merchant Shipping Act, 1951 (Act No. 57 of 1951), shall constitute the registration of the birth or death therein recorded, and the provisions of this Act shall thereupon apply as if such birth or death had occurred within the district of such district registrar or assistant district registrar."

(2) Sub-section (1) shall come into operation on the date on which section *one hundred and eighty-nine* of the Merchant Shipping Act, 1951, comes into operation.

Amendment of section 38 of Act 17 of 1923.

13. Section *thirty-eight* of the principal Act is hereby amended by the substitution for the words "registrar of births, marriages and deaths of the province in which the marriage took place" of the word "registrar-general".

Amendment of section 39 of Act 17 of 1923.

14. Section *thirty-nine* of the principal Act is hereby amended by the substitution in sub-section (2) for the words "registrar of the province in which the marriage took place," of the word "registrar-general".

Amendment of section 40 of Act 17 of 1923 as amended by section 6 of Act 7 of 1934.

15. Section *forty* of the principal Act is hereby amended by the substitution in sub-section (1) and in sub-section (2) for the words "the registrar" of the words "the registrar-general".

Amendment of section 42 of Act 17 of 1923 as amended by section 7 of Act 7 of 1934.

16. Section *forty-two* of the principal Act is hereby amended by the substitution in sub-section (2) and in sub-section (3) for the words "registrar of the province" of the word "registrar-general".

Amendment of section 46 of Act 17 of 1923 as amended by section 8 of Act 7 of 1934.

17. Section *forty-six* of the principal Act is hereby amended by the substitution for the words "the registrar" of the words "the registrar-general or the registrar or any assistant registrar".

Amendment of section 48 of Act 17 of 1923.

18. Section *forty-eight* of the principal Act is hereby amended—

- (a) by the substitution in paragraph (a) for the words "a registrar's office" of the words "the registrar-general's or the registrar's office"; and
- (b) by the substitution in paragraph (b) for the words "a registrar" of the words "the registrar-general, of the registrar, of any assistant registrar".

Amendment of section 49 of Act 17 of 1923 as amended by section 9 of Act 7 of 1934.

19. Section *forty-nine* of the principal Act is hereby amended—

- (a) by the insertion after the definition of "adult" of the following definition:  
"assistant registrar" means an officer appointed as an assistant registrar of births, marriages and deaths under paragraph (b) of sub-section (2) of section *one*;;
- (b) by the substitution, in the definition of "district registrar" and "assistant district registrar", for the word "appointed" of the word "designated";
- (c) by the substitution for the definition of "registrar" of the following definition:  
"registrar" means the officer appointed as registrar of births, marriages and deaths under paragraph (a) of sub-section (2) of section *one*;; and
- (d) by the insertion after the definition of "registrar" of the following definition:  
"registrar-general" means the officer appointed as registrar-general of births, marriages and deaths under sub-section (1) of section *one*;;

Construing of references to district registrars or assistant district registrars.

20. Whenever under sub-section (1) or (2) of section *two* of the principal Act two or more persons have been designated or appointed or are lawfully acting as district registrars or assistant district registrars for any magisterial district or any part thereof, any reference in the principal Act or in any other law to the district registrar or assistant district registrar of births and deaths for such district or such part thereof shall be construed as a reference to the appropriate person so designated or appointed or acting.

Short title.

21. This Act shall be called the Births, Marriages and Deaths Registration Amendment Act, 1955.

No. 49, 1955.]

# ACT

To amend the Railways and Harbours Regulation, Control and Management Act, 1916, the Railways and Harbours Service Act, 1925, and the Railways and Harbours Construction Act, 1931; and to provide for matters incidental thereto.

(English text signed by the Governor-General.)  
(Assented to 20th June, 1955.)

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

Amendment of section 2 of Act 22 of 1916, as amended by section 1 of Act 31 of 1927, section 1 of Act 21 of 1931, section 1 of Act 13 of 1937 and section 1 of Act 36 of 1939.

1. Section *two* of the Railways and Harbours Regulation, Control and Management Act, 1916, is hereby amended by the substitution for the definition of the expression "railways" of the following definition:

" 'railways' shall mean—

- (a) all lines of railway within the Union over which the Administration has control or running rights;
- (b) all lands, stations, sidings, buildings, plant, machinery, rolling stock and all other movable or immovable property and servitudes used in connection with—
  - (i) any such line of railway; or
  - (ii) the Administration's road motor services; and
- (c) any area of land within the limits of an airport, which is exclusively occupied by the Administration for the purposes of its air services, and the boundaries of which are properly demarcated by means of fences or otherwise;"

Amendment of section 41 of Act 22 of 1916 as amended by section 9 of Act 36 of 1939, section 6 of Act 49 of 1949 and section 2 of Act 45 of 1952.

2. (1) Section *forty-one* of the Railways and Harbours Regulation, Control and Management Act, 1916, is hereby amended by the substitution for sub-section (1) of the following sub-section:

"(1) (a) The Governor-General may constitute an advisory board for each of the harbours of Table Bay, Mossel Bay, Port Elizabeth, East London and Durban, or any other harbour, and may appoint persons who are South African citizens to be members thereof.

- (b) An advisory board shall consist of not less than eight and not more than nine members, who shall be nominated as follows—
  - (i) One by the municipal council of the town at which the harbour is situated;
  - (ii) one by the local chamber of industries;
  - (iii) one by the local trade union or, if there are two or more such unions, by the local trade unions jointly;
  - (iv) one by the local chamber of commerce;
  - (v) one by the local 'Afrikaanse Sakekamer' if there is such a 'sakekamer' at the town in question;
  - (vi) four by the Governor-General.
- (c) If there is no such chamber of industries or trade union at the town in question, or if no member is nominated by such chamber or by such trade union or trade unions, one or two additional members, as the case may be, shall be nominated by the said chamber of commerce, or if an 'Afrikaanse Sakekamer' exists at the town in question, by such chamber of commerce and such 'Afrikaanse Sakekamer' jointly.
- (d) In the nomination of the members referred to in sub-paragraph (vi) of paragraph (b), regard shall be had, as to one of them, to representation of the

shipping interest; as to one of them, to representation of the persons paying wharfage or landing, shipping or transshipping dues at the harbour, and as to one of them, to representation of the agricultural interest."

(2) Every harbour advisory board in existence at the date of commencement of this Act shall, save as to the number of its members, be deemed to have been constituted under sub-section (1) of section *forty-one* of the Railways and Harbours Regulation, Control and Management Act, 1916, as substituted by sub-section (1) of this section, and every person who is a member of such board at that date shall retain his office for the unexpired portion of the period for which he was appointed.

Insertion of new section in Act 22 of 1916.

3. The following section is hereby inserted after section *seventy-two ter* of the Railways and Harbours Regulation, Control and Management Act, 1916:

"Establishment and administration of Railways and Harbours House Ownership Fund.

*72quat.* (1) With effect from the first day of April, 1956, there shall be established a fund to be known as the Railways and Harbours House Ownership Fund (hereinafter in this section referred to as 'the Fund').

(2) There shall be paid to the Fund—

(a) any moneys from time to time appropriated to the Fund by Parliament from loan funds;

(b) any capital sums that may be received from servants or from other sources on or after the first day of April, 1956, in repayment or discharge of loans made by the Administration to servants pursuant to the provisions of paragraph (*r*)*bis* of section *three*, whether such loans were made before or after the said date;

(c) any amounts paid to the Administration by servants in terms of sub-section (3).

(3) (a) The Administration may, subject to such conditions as may be prescribed by regulations made under sub-section (6), permit any servant who is in terms of such conditions eligible to do so, to make periodic payments to the Administration with the object of establishing a capital credit to be used for the purpose of augmenting any loan which may thereafter be granted to him by the Administration pursuant to the provisions of the said paragraph (*r*)*bis*.

(b) The Administration shall pay interest on any amounts received by it in terms of paragraph (a), in accordance with the conditions and at the rate prescribed by regulations made under sub-section (6).

(4) The Administration may from time to time withdraw from the Fund, without appropriation by law, such moneys as may be required—

(a) for the purpose of meeting any expenditure incidental to the exercise of its powers under paragraph (*r*)*bis* of section *three*;

(b) for the repayment in accordance with the conditions prescribed by regulations made under sub-section (6), of any amount paid to the Administration by a servant in terms of sub-section (3).

(5) If at any time the moneys in the Fund exceed the amount reasonably required for the purpose mentioned in paragraph (a) of sub-section (4), the Administration may, subject to an appropriation by Parliament, withdraw from the Fund so much of any moneys paid to the Fund in terms of paragraphs (a) and (b) of sub-section (2) as may be required for other railway purposes.

(6) The Administration may, subject to the approval of the Governor-General, make regulations prescribing the conditions governing—

(a) the payment of moneys to the Administration by servants in terms of sub-section (3), and the eligibility of servants to make such payments;

(b) the discontinuance of such payments;

- (c) the utilization of such moneys, in conjunction with any loan granted to the servant concerned under paragraph (*r*)*bis* of section *three*, for the purposes contemplated in that paragraph;
- (d) the repayment of such moneys to the servant concerned or, in the event of his death, to his estate;
- (e) the payment of interest on such moneys, and the rate thereof;
- (f) the preference, in relation to the granting of loans under paragraph (*r*)*bis* of section *three*, that will be accorded to servants by whom such payments are made, and generally prescribing any other matter affecting the payment of and accounting for such moneys as the Administration may deem necessary."

Amendment of section 1 of Act 23 of 1925.

4. Section *one* of the Railways and Harbours Service Act, 1925 (hereinafter referred to as the "principal Act") is hereby amended—

(a) by the insertion, after the definition of the expression "contributions", of the following new definition:

"'disciplinary infringement', in relation to a servant, means—

(i) any breach of or failure to comply with any law or rule governing his employment, or any general or specific instruction issued or given by competent authority;

(ii) neglect or improper performance of duty, and includes any other act or omission on the part of a servant which is of such a nature that it can justifiably be regarded as misconduct, within the ordinary connotation of that expression, on the part of the servant concerned;"; and

(b) by the addition thereto of the following sub-section, the existing section becoming sub-section (1):

"(2) Whenever in this Act or in any other law, a reference occurs to 'misconduct' or an 'act of misconduct' in connection with disciplinary action against servants, it shall be construed as a reference to a disciplinary infringement, and any such action that may hereafter be taken against a servant shall be taken as for a disciplinary infringement."

Amendment of section 15 of Act 23 of 1925.

5. Section *fifteen* of the principal Act is hereby amended—

(a) by the deletion, in sub-section (1), of the words "or contravenes or fails to comply with a regulation, rule or general or specific instruction";

(b) by the deletion of the second sentence of sub-section (2).

Amendment of section 16 of Act 23 of 1925.

6. Section *sixteen* of the principal Act is hereby amended by the substitution, in sub-section (1), for the words "any punishment imposed", of the words "such departmental decision".

Amendment of section 17 of Act 23 of 1925.

7. Section *seventeen* of the principal Act is hereby amended—

(a) by the substitution, for paragraph (*a*) of sub-section (1), of the following paragraph:

"(a) for minor misconduct—

(i) a caution or a reprimand, which shall not be recorded;

(ii) a fine (which shall not be recorded) not exceeding two pounds; recoverable by deduction from emoluments; or";

(b) by the substitution, for sub-paragraph (i) of paragraph (*b*) of sub-section (1), of the following sub-paragraph:

"(i) a caution or a reprimand which shall be written and recorded; or";

(c) by the insertion, in sub-paragraph (ii) of paragraph (*b*) of sub-section (1), after the word "fine", of the words "which shall be recorded;"; and

(d) by the insertion, after sub-section (1), of the following sub-section:

“(1)*bis*. A recorded punishment of a caution, reprimand or censure, or of a fine not exceeding two pounds, whether imposed before or after the commencement of the Railways and Harbours Acts Amendment Act, 1955, shall be expunged from the servant's record unless within a period of three years after the date on which he was found guilty, by the officer dealing with the case, of the misconduct in respect of which such punishment was imposed, a recorded punishment has again been imposed upon him.”

Substitution of new section for section 18 of Act 23 of 1925.

8. (1) The following section is hereby substituted for section *eighteen* of the principal Act: .

“Appeals against disciplinary punishment.

18. (1) (a) Any servant in permanent employment upon whom punishment for misconduct has been imposed and placed on record against him may, within fourteen days of the receipt of the decision, appeal direct to the disciplinary appeal board for his district against the decision finding him guilty of the misconduct, or against the punishment imposed, or against any order made regarding the payment or withholding of emoluments during the whole or any part of a period of suspension, or against any two or more of such matters.

(b) As soon as practicable after receipt of the notice of appeal the disciplinary appeal board shall review the case and hear such further relevant evidence as it may deem necessary or as may be tendered by the appellant or in support of the charge and the decision of the officer who dealt with the case. The servant concerned shall be entitled to be present during the hearing of his appeal and shall be allowed to cross-examine witnesses.

(c) A disciplinary appeal board shall, in its procedure and its finding, exercise an equitable discretion and shall be guided by the substantial merits of the case.

(2) After having heard the appeal as in subsection (1) provided, the disciplinary appeal board shall report to the prescribed officer, or, if the case was dealt with by the General Manager in the first instance, to the Railways and Harbours Board through the General Manager, its finding as to such of the following matters as are in issue in the appeal:

(a) Whether or not the appellant is guilty of the misconduct with which he was charged;

(b) whether, on the supposition that the appellant is guilty—

(i) the punishment imposed is appropriate and, if not, in what manner or to what extent it should be reduced or increased;

(ii) any order made regarding the payment or withholding of emoluments during the whole or any part of a period of suspension is justified and, if not, to what extent more lenient or more severe treatment is merited.

(3) The officer to whom the disciplinary appeal board reports or the Railways and Harbours Board, as the case may be, shall, after considering the finding of the board, decide whether or not the appellant is guilty of the misconduct with which he was charged, and if he or it decides that the appellant is guilty, he or it may confirm the punishment including any order made regarding the payment or withholding of emoluments during the whole or any part of a period of suspension, or may impose such less or more severe punishment or form of punishment, or make such order (whether involving less or more severe treatment) in relation to the payment or withholding of emoluments during the



“(1)*bis*. A recorded punishment of a caution, reprimand or censure, or of a fine not exceeding two pounds, whether imposed before or after the commencement of the Railways and Harbours Acts Amendment Act, 1955, shall be expunged from the servant's record unless within a period of three years after the date on which he was found guilty, by the officer dealing with the case, of the misconduct in respect of which such punishment was imposed, a recorded punishment has again been imposed upon him.”.

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8. (1) The following section is hereby substituted for section *eighteen* of the principal Act :

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(b) As soon as practicable after receipt of the notice of appeal the disciplinary appeal board shall review the case and hear such further relevant evidence as it may deem necessary or as may be tendered by the appellant or in support of the charge and the decision of the officer who dealt with the case. The servant concerned shall be entitled to be present during the hearing of his appeal and shall be allowed to cross-examine witnesses.

(c) A disciplinary appeal board shall, in its procedure and its finding, exercise an equitable discretion and shall be guided by the substantial merits of the case.

(2) After having heard the appeal as in subsection (1) provided, the disciplinary appeal board shall report to the prescribed officer, or, if the case was dealt with by the General Manager in the first instance, to the Railways and Harbours Board through the General Manager, its finding as to such of the following matters as are in issue in the appeal :

(a) Whether or not the appellant is guilty of the misconduct with which he was charged;

(b) whether, on the supposition that the appellant is guilty—

(i) the punishment imposed is appropriate and, if not, in what manner or to what extent it should be reduced or increased;

(ii) any order made regarding the payment or withholding of emoluments during the whole or any part of a period of suspension is justified and, if not, to what extent more lenient or more severe treatment is merited.

(3) The officer to whom the disciplinary appeal board reports or the Railways and Harbours Board, as the case may be, shall, after considering the finding of the board, decide whether or not the appellant is guilty of the misconduct with which he was charged, and if he or it decides that the appellant is guilty, he or it may confirm the punishment including any order made regarding the payment or withholding of emoluments during the whole or any part of a period of suspension, or may impose such less or more severe punishment or form of punishment, or make such order (whether involving less or more severe treatment) in relation to the payment or withholding of emoluments during the

whole or any part of a period of suspension, as the officer who dealt with the case could have imposed or made; and in any case where the appellant is still under suspension at the time his appeal is dealt with by the prescribed officer or the said Board, he or it shall, in addition, make such order as to him or it seems proper with regard to the payment or withholding of emoluments during the period of suspension subsequent to the date on which punishment was first imposed: Provided that no punishment imposed or order made regarding the payment or withholding of emoluments during suspension, shall be increased or rendered more severe in its effect if no appeal has been made against such punishment or order, or if the appeal is based solely on a disputed interpretation of any provision of this Act or any statutory regulation or any instruction issued or given by competent authority.

(4) The decision of the prescribed officer under sub-section (3) shall be final if it is in accord with the unanimous finding of the appeal board on all matters mentioned in paragraphs (a) and (b) of sub-section (2).

(5) Notwithstanding the provisions of sub-section (3), the prescribed officer shall be obliged to accept a unanimous finding of the appeal board as to—

- (a) any matter referred to in paragraph (a) or in sub-paragraph (ii) of paragraph (b) of sub-section (2);
- (b) the matter referred to in sub-paragraph (i) of paragraph (b) of that sub-section in any case where the punishment appealed against is not more severe than a fine of five pounds.

(6) The finding of the appeal board shall be communicated to the appellant when the decision of the prescribed officer is made known to him.

(7) In any case where the appeal board has reported its finding to a prescribed officer the servant concerned may, if he is dissatisfied with the decision of the said officer on any matter referred to in paragraphs (a) and (b) of sub-section (2) on which—

- (a) such decision is not in accord with the unanimous finding of the appeal board; or
- (b) the finding of the said board has not been unanimous,

appeal further in the manner prescribed, to the General Manager against such decision, and if he is dissatisfied with the decision of the General Manager, he may, within fourteen days of the receipt of the decision, ask that the case be referred to the Railways and Harbours Board.

(8) In dealing with an appeal under sub-section (7), the General Manager or the Railways and Harbours Board, as the case may be, may, subject to the proviso to sub-section (3) (which shall be deemed also to form a proviso to this sub-section) give such decision or make such order with respect to any matter forming the subject of the appeal, or with respect to the payment or withholding of emoluments during any period of suspension subsequent to the date on which punishment was first imposed, as could have, and, in his or its opinion should have been given or made by the prescribed officer.

(9) Where a servant appeals to the Railways and Harbours Board against a punishment of dismissal or enforced resignation, he shall have the right to appear before the Board in person.

(10) Whenever the prescribed officer or the Railways and Harbours Board, acting in terms of sub-section (3), or the General Manager or the said Board, acting in terms of sub-section (8), increases the punishment imposed by the officer who dealt with the case, by substituting therefor any of the punishments mentioned in sub-paragraphs (iii) to (viii) inclusive of paragraph (b) of sub-section (1) of section *seventeen*, the substituted punishment may be expressed to take effect as from the date of the original punishment or from any subsequent date.

(11) A servant who has been punished for misconduct shall be entitled to waive in writing his right of appeal to an appeal board and to appeal instead to the head of his department or other prescribed officer and thereafter, if he is dissatisfied, to the General Manager and the Railways and Harbours Board in the manner prescribed.

(12) In dealing with an appeal under sub-section (11), the head of the servant's department or other prescribed officer shall have the same powers, *mutatis mutandis*, as are vested in a prescribed officer by sub-section (3), and the General Manager and the Railways and Harbours Board shall respectively have the same powers, *mutatis mutandis*, as are vested in him or it by sub-section (8) in relation to an appeal under sub-section (7).

(13) A disciplinary appeal board shall consist of one servant nominated by the Administration and one servant elected from the class of servant to which the appellant belongs and the district in which he is stationed. An officer who decides a case or a servant who reports misconduct may not act as a member of an appeal board dealing with such case.

(14) For the purpose of the election of staff representatives on an appeal board, districts shall be prescribed, as also the manner of election of representatives and alternates. The period of office of elected representatives shall not exceed two years.

(15) A disciplinary appeal board shall, in addition to dealing with disciplinary appeals, report upon any subject submitted to it by the Minister or the General Manager.

(16) It shall be competent for any person or body empowered to deal with an appeal against punishment for misconduct under this section or under any regulation, to condone the failure of the appellant to submit his appeal within the relevant period specified in this Act or in any regulation, if in his or its opinion there are reasonable grounds for granting such indulgence."

(2) The provisions of sub-section (5) of section *eighteen* of the principal Act shall cease to have effect on a date twelve months after the date of commencement of this Act, or on such later date, not exceeding twenty-four months after the said date of commencement, as the Governor-General may specify by proclamation in the *Gazette*.

(3) Any matter prescribed prior to the commencement of this Act under any provision of section *eighteen* of the principal Act, shall be deemed to have been prescribed under the corresponding provision of the said section *eighteen*, as substituted by sub-section (1) of this section.

Validation of certain changes in conditions of employment.

9. All changes in conditions of employment for which provision is made in any regulation published under any Government Notice mentioned in the Schedule to this Act, and which were brought into operation with retrospective effect or in respect whereof the amending regulations were not approved by the Governor-General until after the expiration of the period of three months mentioned in sub-section (4) of section *thirty-one* of the principal Act, are hereby validated

with effect from the dates as from which such changes were respectively brought into operation.

Amendment of section 9 of Act 43 of 1931, as amended by section 20 of Act 63 of 1951.

**10.** Section *nine* of the Railways and Harbours Construction Act, 1931, is hereby amended by the substitution, for the word "twenty-five", of the word "forty-five".

Application of this Act to South-West Africa.

**11.** This Act shall apply to the Territory of South-West Africa

Short title.

**12.** This Act shall be called the Railways and Harbours Acts Amendment Act, 1955.

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**Schedule.**

<i>No. of Government Notice.</i>	<i>Date of Publication.</i>
28	8.1.1954
567	26.3.1954
568	26.3.1954
569	26.3.1954
1019	28.5.1954
1021	28.5.1954
1022	28.5.1954
1367	9.7.1954
1590	6.8.1954

No. 50, 1955.]

# ACT

To make provision for raising the ages at which members of the Railways and Harbours Service may retire or may be required to retire on superannuation; and for matters incidental thereto.

(Afrikaans text signed by the Governor-General.)  
(Assented to 20th June, 1955.)

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

## Definitions.

1. In this Act, unless the context otherwise indicates—
- (i) "existing age of retirement", in relation to a present member or a present servant, means the age at which such present member or present servant could have retired or could have been required to retire from the Service on superannuation in terms of the applicable provision of the principal Act as it existed immediately prior to the commencement of this Act; (i)
  - (ii) "member" means any person who is for the time being a servant and a contributor to the New Fund or the Fund; (vi)
  - (iii) "new member" means a member who became a servant in a temporary or a permanent capacity on or after the date of commencement of this Act; (viii)
  - (iv) "new servant" means a person who became a servant in a temporary or a permanent capacity on or after the date of commencement of this Act; (vii)
  - (v) "present member" means a member who became a servant in a temporary or a permanent capacity prior to the date of commencement of this Act and who will attain his existing age of retirement on or after the first day of January, 1956; (x)
  - (vi) "present servant" means a person who became a servant in a temporary or a permanent capacity prior to the date of commencement of this Act and who will attain his existing age of retirement on or after the first day of January, 1956; (ix)
  - (vii) "principal Act" means the 1912 Service Act, the Service Act or the Superannuation Fund Act, whichever may be applicable; (v)
  - (viii) "the 1912 Service Act" means the Railways and Harbours Service Act, 1912 (Act No. 28 of 1912); (ii)
  - (ix) "the Service Act" means the Railways and Harbours Service Act, 1925 (Act No. 23 of 1925); (iii)
  - (x) "the Superannuation Fund Act" means the Railways and Harbours Superannuation Fund Act, 1925 (Act No. 24 of 1925), (iv)

and any other expression to which a meaning is assigned in section *one* of the Superannuation Fund Act shall, when used in this Act, bear the meaning so assigned to it.

Members of the Fund may elect to retire at higher age.

2. (1) A present member of the Fund shall have the right to elect, subject to the provisions of sub-section (3), to retire from the Service on pension when he has attained the age of sixty-three years and, if he so elects, and his election is not disapproved by the Administration in terms of sub-section (3), the age of sixty years specified in sub-section (1) of section *forty-one* of the 1912 Service Act shall, in relation to him, be deemed to be the age of sixty-three years.

(2) The election provided for in sub-section (1) shall be exercised at such time or within such period and in such manner as may be prescribed by regulations made under section *twelve*.

(3) The Administration shall have the right in its entire discretion to disapprove an election made by a member, in terms of sub-section (1) to retire at the higher age therein

referred to, and if it does so it shall notify the member of its decision within sixty days after the date on which notification of the exercise of the election was received, but in any event before the date on which the member attains the age of sixty years.

Amendment of section 11 of Act 23 of 1925, as amended by section 2 of Act 27 of 1930, section 5 of Act 15 of 1940, and section 11 of Act 49 of 1949.

3. Section *eleven* of the Service Act is hereby amended by the substitution, in paragraph (g) thereof, for the expression "paragraph (c) of sub-section (1)" of the expression "paragraph (d) of sub-section (1)".

Substitution of new section for section 14 of Act 23 of 1925, as substituted by section 13 of Act 49 of 1949 and as amended by section 3 of Act 45 of 1952.

4. (1) The following section is hereby substituted for section *fourteen* of the Service Act:

" Retirement of servants on attaining age limit.

14. (1) Save as provided in sub-section (5) of this section or in any pre-Union pension or superannuation statute, a servant shall be retired from the Service on attaining the age of—

- (a) sixty-three years; or
- (b) sixty years, if immediately prior to the attainment of that age he held the position of a policeman (which expression shall for the purposes of this paragraph mean a person appointed under section *fifty-seven* of the Railways and Harbours Regulation, Control and Management Act, 1916 (Act No. 22 of 1916)), or of a captain-in-command in the airways department of the Service; or
- (c) fifty-eight years, if immediately prior to the attainment of that age he held the position of—
  - (i) a telegraphist; or
  - (ii) a driver, passed fireman, passed driver's assistant, fireman or driver's assistant of a steam or electric locomotive; or
- (d) fifty years, if immediately prior to the attainment of that age he held the position of line captain, senior captain, captain, chief flying instructor, senior flying instructor, flying instructor, first officer, senior navigation officer or navigation officer in the airways department of the Service, or any other position in the said department, the incumbent whereof is or may be required to perform duties on board an aircraft in flight, to which the Minister has by notice in the *Gazette* declared the said age of retirement to apply. Any position mentioned in any such notice shall be deemed to have been specifically mentioned in this paragraph.

(2) A servant who holds any position mentioned in paragraph (b), (c) or (d) of sub-section (1) shall not be deemed to have ceased to hold such position at any particular time by reason of the fact that at that time he was employed in another position in an acting capacity or in consequence of a disciplinary punishment of reduction in rank for a specified period.

(3) If at the date of publication by the Minister of a notice in terms of paragraph (d) of sub-section (1), a servant already holds any position mentioned in such notice, the provisions of that paragraph shall apply to such servant only if he has, within a period of six months after the said date, or within such further period as the Administration may under special circumstances allow, but in any event before he attains the age of fifty years, agreed in writing to the application to him of the age of retirement laid down in the said paragraph.

(4) A servant to whom the provisions of paragraph (d) of sub-section (1) apply may, notwithstanding the said provisions, be retired from the Service by the Minister at any time after he has attained the age of forty-five years and before he attains the age of fifty years, if immediately prior to the date of his retirement by the Minister he held any such position as is mentioned in the said paragraph. Any annuity granted to a person who has been retired in terms of this sub-section shall be paid from revenue until the annuitant concerned attains the age of fifty years, and thereafter from the New Railways and Harbours Superannuation Fund constituted under section *three* of the Railways and Harbours Superannuation Fund Act, 1925 (Act No. 24 of 1925).

(5) No servant shall, except with the approval of the Minister or other prescribed authority, be retained in the Service beyond the retiring age prescribed in sub-section (1).

(6) A return of all servants who have been retained, in terms of sub-section (5), beyond the retiring age prescribed in sub-section (1), shall be laid upon the tables of both Houses of Parliament within fourteen days after the commencement of each ordinary session."

(2) The age of retirement specified in paragraph (a) or (c) of sub-section (1) of section *fourteen* of the Service Act, as substituted by sub-section (1) of this section, shall apply in respect of—

- (a) every new servant;
- (b) every present member who has exercised the election provided for in sub-section (1) of section *two* or in sub-section (3) of section *six*, provided such election has not been disapproved in terms of sub-section (3) of the first-mentioned or sub-section (5) of the last-mentioned section; and
- (c) every present servant who has exercised the election provided for in sub-section (3), provided such election has not been disapproved in terms of sub-section (5).

(3) A present servant who is not a member shall, unless he holds a position specified in paragraph (b) or (d) of sub-section (1) of section *fourteen* of the Service Act, as substituted by sub-section (1) of this section, have the right to elect, subject to the provisions of sub-section (5), to be retired from the Service on attaining the age specified in paragraph (a) or (c) of the said sub-section (1), whichever may be applicable in his case.

(4) The election provided for in sub-section (3) shall be exercised at such time or within such period and in such manner as may be prescribed by regulations made under section *twelve*.

(5) The Administration shall have the right in its entire discretion, to disapprove an election made by a present servant, in terms of sub-section (3), to be retired at the higher age therein referred to, and if it does so it shall notify the servant of its decision within sixty days after the date on which notification of the exercise of the election was received, but in any event before the date on which the servant attains his existing age of retirement.

(6) In their application to a servant—

- (a) who does not exercise an election, available to him in terms of any provision of this Act, to retire or to be retired at an age higher than his existing age of retirement, or whose election (if so exercised) is disapproved by the Administration; or
- (b) who will attain his existing age of retirement prior to the first day of January, 1956,

the provisions of sub-section (1) of section *fourteen* of the Service Act, as substituted by sub-section (1) of this section, shall be construed as if for the words "sixty-three" and "fifty-eight" occurring in paragraphs (a) and (c), respectively, of the first-mentioned sub-section, there were substituted the words "sixty" and "fifty-five" respectively.

Amendment of section 8 of Act 24 of 1925, as substituted by section 16 of Act 49 of 1949 and as amended by section 12 of Act 63 of 1951 and section 4 of Act 45 of 1952.

5. Section *eight* of the Superannuation Fund Act is hereby amended—

- (a) by the substitution, in paragraph (a) of sub-section (2), for the words "in accordance with sub-section (3) of section *fourteen* of the Railways and Harbours Service Act, 1925, the provisions of paragraph (c) of sub-section (1) of that section apply," of the words "the provisions of paragraph (d) of sub-section (1) of section *fourteen* of the Railways and Harbours Service Act, 1925, apply," and by the substitution, in the proviso to that paragraph, for the expression "paragraph (c) of sub-section (1)" of the expression "paragraph (d) of sub-section (1)";
- (b) by the substitution, in paragraph (b) of sub-section (2), for the words "in accordance with sub-section (3) of section *fourteen* of the Railways and Harbours Service Act, 1925, the provisions of paragraph (c) of sub-section (1) of that section apply to him" of the words "the provisions of paragraph (d) of sub-section (1) of section *fourteen* of the Railways and Harbours Service Act, 1925, apply to him";
- (c) by the insertion after sub-section (2) of the following sub-section:
- "(2)*bis* (a) Every member who holds a position mentioned in paragraph (b) of sub-section (2) of section *sixteen* shall, in addition to the contributions prescribed in sub-section (1) or (3), whichever may be applicable, make further contributions (hereinafter referred to as 'special contributions') to the New Fund at the rate of one per cent. of his pensionable emoluments, with effect from the date of commencement of this Act or the date on which he is appointed to any such position, whichever is the later.
- (b) (i) If a member by whom the special contributions prescribed in paragraph (a) are payable is transferred (otherwise than in consequence of a disciplinary punishment of reduction in rank for a specified period) to a post in the Service other than one in respect of the occupancy of which the said special contributions are payable, there shall, notwithstanding anything in this or any other Act contained, be refunded to him, without interest, an amount equal to the special contributions paid by him.
- (ii) If a member who has been so transferred is subsequently reappointed to a post in the Service in respect of the occupancy of which the said special contributions are payable, he shall repay to the New Fund, in such manner as the Administration may determine, any amount that was paid to him in terms of sub-paragraph (i) of this paragraph and, if at the time of such member's retirement or death, such amount has not been paid in full, the outstanding balance may, in the absence of agreement as to some other method of payment, be recovered from any moneys due to the member by the Administration, or by deduction from any benefit payable to such member or to some other person in respect of his death. For the purposes of this sub-paragraph the expression "benefit" shall be deemed to include, in relation to a member who has died, the capital sum on which, in terms of the applicable provision of this or some other Act, the calculation of any annuity payable to his widow is to be based.
- (c) The provisions of paragraph (b) shall *mutatis mutandis* apply in respect of a member who is transferred from the Service to the Public Service of the Union or the service of a Provincial Administration or of the Territory of South-West Africa.



- (d) Whenever a refund in terms of paragraph (b) or (c) is made to a member, there shall be paid to the Administration from the New Fund a sum equal to the special contributions paid to the New Fund by such member in respect of any period of his pensionable employment."

Amendment of section 16 of Act 24 of 1925, as amended by section 11 of Act 15 of 1940, section 17 of Act 49 of 1949 and section 6 of Act 45 of 1952.

6. (1) Section *sixteen* of the Superannuation Fund Act is hereby amended by the substitution, for sub-sections (1) and (2), of the following sub-sections:

"(1) Save as otherwise provided in sub-section (2), a member who has attained the age of sixty-three years and has contributed to the New Fund in respect of a period of at least ten years, shall have the right to retire on pension, or may be required to retire on pension.

(2) (a) A member who has contributed to the New Fund in respect of a period of at least ten years and has attained the age of sixty years, shall have the right to retire on pension, or may be required to retire on pension if immediately prior to the attainment of that age he held the position of a policeman or of a captain-in-command in the airways department of the Service.

(b) A member who has contributed to the New Fund in respect of a period of at least ten years and has attained the age of fifty-eight years, shall have the right to retire on pension or may be required to retire on pension, if immediately prior to the attainment of that age he held the position of—

(i) a telegraphist; or

(ii) a driver, passed fireman, passed driver's assistant, fireman or driver's assistant of a steam or electric locomotive.

(c) A member who has contributed to the New Fund in respect of a period of at least ten years and to whom the provisions of paragraph (d) of sub-section (1) of section *fourteen* of the Railways and Harbours Service Act, 1925 (Act No. 23 of 1925), apply, shall have the right to retire on pension, or may be required to retire on pension, if he has attained the age of fifty years: Provided that any such member may be required by the Minister to retire at any time after he has attained the age of forty-five years and before he attains the age of fifty years, even if at that time he has not contributed to the New Fund in respect of a period of ten years.

(d) A servant who holds any position referred to in paragraph (a), (b) or (c) of this sub-section shall not be deemed to have ceased to hold such position at any particular time by reason of the fact that at that time he was employed in another position in an acting capacity or in consequence of a disciplinary punishment of reduction in rank for a specified period.

(e) An annuity granted on retirement in terms of the proviso to paragraph (c) shall be paid from revenue until the annuitant attains the age of fifty years.

(f) For the purposes of paragraph (a) the expression "policeman" means a person appointed under section *fifty-seven* of the Railways and Harbours Regulation, Control and Management Act, 1916 (Act No. 22 of 1916)."

(2) The ages of retirement specified in sub-section (1) and paragraph (b) of sub-section (2) of section *sixteen* of the Superannuation Fund Act, as substituted by sub-section (1) of this section, shall apply in respect of every new member and of every present member who has exercised the election provided for in sub-section (3) of this section, provided such election has not been disapproved in terms of sub-section (5).

(3) A present member shall, unless he holds a position specified in paragraph (a) or (c) of sub-section (2) of section *sixteen* of the Superannuation Fund Act, have the right to elect, subject to the provisions of sub-section (5), to retire from the Service on pension when he has attained the age specified in sub-section (1) or in paragraph (b) of sub-section (2) of the said section, whichever may be applicable in his case.

(4) The election provided for in sub-section (3) shall be exercised at such time or within such period and in such manner as may be prescribed by regulations made under section *twelve*.

(5) The Administration shall have the right in its entire discretion to disapprove an election made by a present member in terms of sub-section (3), to retire at the higher age therein referred to, and if it does so it shall notify the member of its decision within sixty days after the date on which notification of the exercise of the election was received, but in any event before the date on which the member attains his existing age of retirement.

(6) In their application to a member—

(a) who does not exercise the election, available to him in terms of sub-section (3), to retire on pension at an age higher than his existing age of retirement, or whose election (if so exercised) is disapproved by the Administration in terms of sub-section (5); or

(b) who will attain his existing age of retirement prior to the first day of January, 1956,

the provisions of sub-sections (1) and (2) of section *sixteen* of the Superannuation Fund Act, as substituted by sub-section (1) of this section, shall be construed as if for the words "sixty-three" and "fifty-eight" occurring in sub-section (1) of the first-mentioned section and in paragraph (b) of sub-section (2) thereof, respectively, there were substituted the words "sixty" and "fifty-five", respectively.

Amendment of section 18 of Act 24 of 1925, as amended by section 18 of Act 49 of 1949.

7. (1) Section *eighteen* of the Superannuation Fund Act is hereby amended by the substitution, for sub-section (1), of the following sub-section:

- "(1) An annuity shall be calculated at the rate of—
- (a) one-fiftieth in the case of a member to whom the provisions of paragraph (d) of sub-section (1) of section *fourteen* of the Railways and Harbours Service Act, 1925 (Act No. 23 of 1925), apply; or
- (b) one-fifty-fifth in the case of a member holding a position mentioned in paragraph (b) of sub-section (2) of section *sixteen*, whether the age of retirement applicable to him is fifty-five or fifty-eight years; or
- (c) one-sixtieth in the case of all other members,

for each year of the period of membership of the New Fund, based on the annual average of the pensionable emoluments for the period of seven years immediately preceding retirement, or the annual average of the pensionable emoluments for the whole period of membership of the New Fund, whichever is the greater: Provided that no annuity shall be granted to any person unless contributions have been made by him, or on his behalf, in respect of a period of ten years or more; and provided further that the member is in other respects qualified for such an annuity."

(2) The rate of one-fifty-fifth prescribed in paragraph (b) of sub-section (1) of section *eighteen* of the Superannuation Fund Act shall apply in respect of every member referred to in that paragraph who retires or is retired on pension on or after the day following the date of commencement of this Act.

Amendment of section 19 of Act 24 of 1925, as substituted by section 19 of Act 49 of 1949.

8. Section *nineteen* of the Superannuation Fund Act is hereby amended—

- (a) by the deletion of the words "or over" appearing after the figures "60" in the Table set forth in sub-section (1) thereof, and the addition of the following to the first, second and third columns respectively of that Table:

"61	10.03	11.16
62	9.72	10.83
63 or over	9.42	10.50";

(b) by the substitution, for the Table set forth in sub-section (3) thereof, of the following Table:

"Nearest age at date of retirement.	Number of pounds for each pound of annuity commuted.	
	Male member.	Female member.
	£	£
Up to 60	10.32	—
61	10.03	—
62	9.72	—
63 or over	9.42	—
Up to 55	—	12.96
56	—	12.67
57	—	12.37
58	—	12.07
59	—	11.77
60	—	11.47
61	—	11.16
62	—	10.83
63 or over	—	10.50".

Amendment of section 27 of Act 24 of 1925, as substituted by section 20 of Act 49 of 1949 and as amended by section 7 of Act 45 of 1952.

9. Section *twenty-seven* of the Superannuation Fund Act is hereby amended by the substitution, for the words "in accordance with sub-section (3) of section *fourteen* of the Railways and Harbours Service Act, 1925, the provisions of paragraph (c) of sub-section (1) of that section" of the words "the provisions of paragraph (d) of sub-section (1) of section *fourteen* of the Railways and Harbours Service Act, 1925,".

Amendment of section 34 *ter* of Act 24 of 1925, as inserted by section 22 of Act 49 of 1949 and as amended by section 9 of Act 45 of 1952.

10. Section *thirty-four ter* of the Superannuation Fund Act is hereby amended by the substitution, for the words "in accordance with sub-section (3) of section *fourteen* of the Railways and Harbours Service Act, 1925, the provisions of paragraph (c) of sub-section (1) of that section" of the words "the provisions of paragraph (d) of sub-section (1) of section *fourteen* of the Railways and Harbours Service Act, 1925,".

Amendment of section 72 of Act 24 of 1925, as substituted by section 24 of Act 49 of 1949.

11. Section *seventy-two* of the Superannuation Fund Act is hereby amended—

(a) by the deletion of the words "or over" appearing after the figures "60" in the Table set forth in sub-section (1) thereof, and the addition of the following to the first, second and third columns respectively, of that Table:

"61	10.03	11.16
62	9.72	10.83
63 or over	9.42	10.50";

(b) by the substitution, for the Table set forth in sub-section (3) thereof, of the following Table:

"Nearest age at date of retirement.	Number of pounds for each pound of annuity commuted.	
	Male member.	Female member.
	£	£
Up to 60	10.32	—
61	10.03	—
62	9.72	—
63 or over	9.42	—
Up to 55	—	12.96
56	—	12.67
57	—	12.37
58	—	12.07
59	—	11.77
60	—	11.47
61	—	11.16
62	—	10.83
63 or over	—	10.50".

Regulations and delegation of authority.

12. (1) The Administration may, subject to the approval of the Governor-General, make regulations prescribing the time when, the period within which and the manner in which an election under sub-section (1) of section *two*, sub-section (3) of section *four* or sub-section (3) of section *six* shall be exercised.

(2) The Administration may delegate to the General Manager and to any other officer or officers of the Administration, subject to such conditions and limitations as may be specified, authority to exercise on its behalf any of the powers conferred upon it by sub-section (3) of section *two*, sub-section (5) of section *four* or sub-section (5) of section *six*.

Election to retire at higher age may not be withdrawn. **13.** If a servant or a member has duly exercised, in accordance with any regulations made under section *twelve*, any election provided for in section *two*, *four* or *six*, to retire or to be retired at an age higher than his existing age of retirement, he shall not be permitted to withdraw such election.

Application of Act to South-West Africa. **14.** This Act shall apply to the Territory of South-West Africa.

Short title. **15.** This Act shall be called the Railways and Harbours Service and Superannuation Amendment Act, 1955.

No. 51, 1955.]

# ACT

## To amend the Aviation Act, 1923.

(English text signed by the Governor-General.)  
(Assented to 20th June, 1955.)

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

Amendment of section 3 of Act 16 of 1923, as amended by section 3 of Act 41 of 1946.

1. (1) Section *three* of the Aviation Act, 1923 (hereinafter referred to as the principal Act), is hereby amended—

(a) by the substitution in sub-section (1) for the word "Governor-General" of the word "Minister";

(b) by the insertion in paragraph (c) of sub-section (1) after the word "*six*" of the words "and exemption from payment or variation as to the payment of such charges" and by the deletion in that paragraph of the words "the licensing or certificating of persons employed at aerodromes in the inspection or supervision of aircraft";

(c) by the insertion after paragraph (c) of sub-section (1) of the following paragraphs:

"(c)*bis* the control and management of any aerodrome established and maintained under the provisions of section *six*, including—

- (i) the prevention of damage to any runway, taxiway or other works or property connected with such aerodrome;
- (ii) the regulation or prohibition of vehicular or other traffic within such aerodrome;
- (iii) the control of aircraft on such aerodrome while such aircraft are not subject to the control of the air traffic control service operating at such aerodrome;
- (iv) the prevention of damage to aircraft on such aerodrome and the protection of freight carried by such aircraft;
- (v) the removal of aircraft hulks and aircraft wreckage likely to obstruct any runway or taxiway on such aerodrome, the imposition and recovery of charges for the right to leave an aircraft hulk or any aircraft wreckage on any such aerodrome, and the saving of life in the case of aircraft accidents;
- (vi) the granting of licences to handling, forwarding, passenger or freight agents, or other persons trading on such aerodrome, and the fees to be paid in respect of each such licence;
- (vii) the prohibition of smoking on such aerodrome or any part thereof;
- (viii) the discretionary rights and powers which may be exercised in relation to the admission of the public to, or their exclusion from, such aerodrome or any part thereof and the imposition of charges for such admission and exemption from payment or variation as to the payment of such charges;
- (ix) the regulation or prohibition of the admission of any animal or class of animal to such aerodrome or any part thereof;
- (x) the prevention of the commission of any nuisance in or on such aerodrome and generally the promotion and ensuring of good sanitation, cleanliness and decency therein or thereon;

- (xi) the regulation of the handling and storing of goods at such aerodrome, the charges to be made for handling or storing goods and for their care or custody, the terms and conditions upon which they shall be received, the disposal of unclaimed goods and exemption from payment or variation as to the payment of such charges;
  - (xii) the conditions under which and the times when dangerous or offensive classes of goods may be transported or handled at such aerodrome, the prohibition of the transport or handling of those classes of goods, and provision for or sanctioning of the removal or destruction of such goods;
  - (xiii) the use of land forming part of such aerodrome for sites for the bulk storage of liquid fuel and other inflammable substances, for pipe lines, power lines and the like, and whether such lines shall be overhead or underground;
  - (xiv) the installation, maintenance and control of automatic vending, weighing, novelty and similar machines on such aerodrome and the charges to be paid in respect of each such machine;
- (c)ter the licensing or certificating of persons engaged in the construction, overhaul, maintenance, inspection or supervision of aircraft;”;
- (d) by the deletion of paragraph (f)bis of sub-section (1);
- (e) by the substitution for paragraph (j) of sub-section (1) of the following paragraphs:
- “(j) regulating the lighting or marking of any obstruction exceeding a prescribed height within a prescribed distance from any aerodrome;
- (j)bis prohibiting or regulating lights at or in the neighbourhood of aerodromes;”;
- (f) by the insertion after paragraph (k) of sub-section (1) of the following paragraph:
- “(k)bis the prevention or minimizing of interference with the use or effectiveness of radio or electronic apparatus used as aids to safety in air navigation;”;
- (g) by the deletion in the English text of paragraph (q) of sub-section (1) of the word “spare”;
- (h) by the insertion after paragraph (q) of sub-section (1) of the following paragraph:
- “(r) prescribing airworthiness requirements (including requirements as to design, performance, operation or maintenance) for aircraft, aircraft components or equipment and the specifications for materials used in, and the standards and processes which shall be observed in, the construction of aircraft, aircraft components or equipment, and such requirements, specifications, standards or processes, as the case may be, may differ in respect of different classes of aircraft or different types or models of the same class of aircraft or the same type or model of aircraft when used in different categories of operation or different classes or types of aircraft components or equipment;” and
- (i) by the insertion after sub-section (1) of the following sub-sections:
- “(1)bis Different regulations may be made under paragraph (c)bis of sub-section (1) in respect of different aerodromes established and maintained under the provisions of section six.
- (1)ter No fees or charges or, where applicable, exemption from payment or variation as to the payment of such charges, shall be prescribed or

provided for under sub-section (1) except after consultation with the Minister of Finance.”.

(2) Any regulations made under section *three* of the principal Act and in force at the commencement of this Act shall be deemed to have been made by the Minister under that section as amended by sub-section (1) of this section.

Amendment of section 6 of Act 16 of 1923, as amended by section 6 of Act 41 of 1946.

2. Section *six* of the principal Act is hereby amended by the addition thereto of the following sub-section:

“(3) The Governor-General may, in like manner, acquire land, and interests in and rights to and over land, for the purpose of—

(a) the construction and maintenance of drainage works for the control and disposal of water which would otherwise gather on an aerodrome established and maintained under the provisions of sub-section (1);

(b) the erection and maintenance of warning lights or other aids to safety in air navigation (including pipe lines or power lines or the like, whether underground or overhead, required in connection with such lights or other aids) which are deemed necessary in connection with any aerodrome in respect of which a licence under the regulations has been or is to be issued.”.

Insertion of section *6bis* in Act 16 of 1923.

3. The following section is hereby inserted in the principal Act after section *six*:

“Access to land or structures for certain purposes.

*6bis.* (1) Any person duly authorized thereto in writing by the Secretary for Transport may enter any land or structure, after notice to the occupier thereof, for the purpose of carrying out thereon or therein any such examination or survey as may be necessary to determine its suitability for any of the purposes mentioned in section *six* or of performing thereon or therein any other act which he is authorized to perform thereon or therein by this Act.

(2) Any person who hinders or obstructs any person in the exercise of his powers or the performance of his duties under sub-section (1) shall be guilty of an offence.”.

Repeal of section 7 of Act 16 of 1923.

4. Section *seven* of the principal Act is hereby repealed.

Amendment of section 16 of Act 16 of 1923, as amended by section 1 of Act 18 of 1950.

5. Section *sixteen* of the principal Act is hereby amended by the insertion in sub-section (2) after the word “owner” where it occurs for the second time of the words “(except in the case of an air carrier as defined in section *one* of the Air Services Act, 1949 (Act No. 51 of 1949))”.

Amendment of section 17 of Act 16 of 1923.

6. Section *seventeen* of the principal Act is hereby amended by the addition at the end thereof of the following proviso:

“Provided that if any such offence is committed within the Union, the offence may be tried by any court having jurisdiction where the offence was committed.”.

Amendment of section 18 of Act 16 of 1923.

7. Section *eighteen* of the principal Act is hereby amended—

(a) by the addition at the end of sub-section (1) of the words “and to all Union aircraft and personnel wheresoever they may be.”; and

(b) by the insertion after sub-section (1) of the following sub-section:

“(1)*bis* For the purposes of sub-section (1) the personnel of an aircraft shall be deemed to include the pilot or other person in charge of the aircraft, and all other members of the crew of the aircraft.”.

Amendment of section 20 of Act 16 of 1923, as amended by section 7 of Act 41 of 1946 and section 3 of Act 42 of 1947.

8. Section *twenty* of the principal Act is hereby amended—

(a) by the deletion of the definition of “air carrier”;

(b) by the deletion of the definition of “commercial air service”; and

(c) by the substitution for the definition of “Minister” of the following definition:

“‘Minister’ means the Minister of Transport;”.

Short title.

9. This Act shall be called the Aviation Amendment Act, 1955.

No. 53, 1955.]

# ACT

To make provision for the dissolution and the constitution of the Senate, to amend the South Africa Act, 1909 and the South-West Africa Affairs Amendment Act, 1949, and to provide for matters incidental thereto.

(English text signed by the Governor-General.)  
(Assented to 20th June, 1955.)

Preamble.

WHEREAS it is by section *twenty-five* of the South Africa Act, 1909, provided that Parliament may provide for the manner in which the Senate shall be constituted after the expiration of a period of ten years from the establishment of the Union:

AND WHEREAS provision is made in the said section *twenty-five* for the manner in which the Senate shall be constituted until Parliament otherwise provides:

AND WHEREAS it is expedient to make provision for the constitution of the Senate in a manner other than that provided for in the said section *twenty-five*:

AND WHEREAS it is expedient to make provision for matters incidental thereto:

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

Dissolution  
of the Senate.

1. (1) Notwithstanding anything to the contrary contained in sections *twenty*, *twenty-four* and *twenty-five* of the South Africa Act, 1909, or any other law—

(a) the Governor-General shall by proclamation in the *Gazette*, dissolve the Senate at any time before the thirty-first day of December, 1955; and

(b) all the members of the Senate except those members of the Senate who were elected under the Representation of Natives Act, 1936 (Act No. 12 of 1936), but including those members who were elected or nominated under the South-West Africa Affairs Amendment Act, 1949 (Act No. 23 of 1949), shall, upon the dissolution of the Senate in terms of paragraph (a) of this section, vacate their seats,

and the Senate shall thereafter be constituted as provided in this Act.

(2) (a) Notwithstanding anything to the contrary contained in section *twenty* of the South Africa Act, 1909, or any other law, the Governor-General may at any time within one hundred and twenty days from the expiry of the term of office of a provincial council under section *seventy-three* of the said Act, by proclamation in the *Gazette* dissolve the Senate.

(b) Any dissolution of the Senate under paragraph (a) of this sub-section shall for all purposes be deemed to be a dissolution of the Senate under paragraph (a) of section *one* of the Senate Act, 1926 (Act No. 54 of 1926).

Constitution  
of the Senate.

2. (1) The Senate shall, subject to the provisions of the Representation of Natives Act, 1936, and of the South-West Africa Affairs Amendment Act, 1949, consist of—

(a) sixteen senators nominated by the Governor-General; and

(b) so many senators, but not less than eight, in the case of each province as are equal (to the nearest figure) to one-fifth of the number of the electoral divisions into which that province has at the last delimitation under the South Africa Act, 1909, for the election of members of the House of Assembly been divided, together with the electoral divisions into which that province has been so divided for the election of provincial councillors.



(2) The Senators referred to in paragraph (b) of sub-section (1) shall in the case of each province be elected jointly by the then sitting members of the House of Assembly and provincial councillors for that province other than the members elected under the Representation of Natives Act, 1936.

Nominated senators.

3. (1) The senators nominated by the Governor-General in terms of paragraph (a) of sub-section (1) of section *two* shall, subject to the provisions of section *one* of the Senate Act, 1926 (Act No. 54 of 1926), hold their seats for five years.

(2) One-half of the senators so nominated shall be selected on the ground mainly of their thorough acquaintance by reason of their official experience or otherwise, with the reasonable wants and wishes of the coloured races in South Africa.

(3) If the seat of a senator so nominated becomes vacant, the Governor-General shall nominate another person to hold the seat until the completion of the period for which the person in whose stead he is nominated would have held the seat.

Elected senators.

4. (1) The senators elected under sub-section (2) of section *two* shall hold their seats for five years unless the Senate be sooner dissolved.

(2) If the seat of an elected senator becomes vacant, the then sitting members of the House of Assembly and the provincial councillors for the province concerned (other than the members elected under the Representation of Natives Act, 1936), shall elect a person to hold the seat until the completion of the period for which the person in whose stead he is elected, would have held the seat.

(3) Senators shall be elected by majority vote each voter having one non-transferable vote for each senator to be elected.

(4) If two or more persons who are at any election of senators candidates for the same seat, receive the same number of votes, a re-election of a senator for that seat shall be held forthwith according to that principle of proportional representation according to which each voter has one transferable vote, and if at such a re-election the said persons again receive the same number of votes, one of the said persons to be determined by the drawing of lots shall be deemed to have been elected as a senator for that seat.

(5) The Governor-General may make regulations in regard to the election of senators under this Act, including regulations in regard to the duties of returning officers in connection with such elections and in regard to the drawing of lots in the circumstances contemplated in sub-section (4).

Amendment of section 26 of the South Africa Act, 1909.

5. Section *twenty-six* of the South Africa Act, 1909, is hereby amended by the deletion of paragraph (e) thereof and of the words "and property situated within" wherever they occur.

Amendment of section 30 of the South Africa Act, 1909.

6. Section *thirty* of the South Africa Act, 1909, is hereby amended by the substitution for the word "twelve" of the word "fifteen".

Substitution of section 63 of the South Africa Act, 1909.

7. The following section is hereby substituted for section *sixty-three* of the South Africa Act, 1909:

"Disagreement between the two Houses.

63. (1) If the House of Assembly in any session passes a Bill imposing taxation only or dealing with the appropriation of revenue or moneys for the public service, and the Senate in the same session rejects or fails to pass it or passes it with amendments to which the House of Assembly will not agree, the Bill shall, unless the House of Assembly otherwise directs, be presented to the Governor-General for the Queen's assent and shall as soon as it has been assented to in the Queen's name by the Governor-General, become an Act of Parliament and be taken to have been duly passed by both Houses of Parliament, notwithstanding that the Senate has not consented to it.

(2) There shall be endorsed on every Bill which imposes taxation only or which deals with the appropriation of revenue or moneys for the public service, when it is sent up to the Senate and when it is presented to the Governor-General for the Queen's assent, the certificate of the Speaker of the House of Assembly signed by him that it is such a Bill.

(3) If the House of Assembly in two successive sessions (whether of the same Parliament or not) passes a Bill, other than a Bill referred to in subsection (1), and the Senate in each of those sessions rejects or fails to pass it or passes it with amendments to which the House of Assembly will not agree, the Bill shall, unless the House of Assembly otherwise directs, be presented to the Governor-General for the Queen's assent and shall as soon as it has been assented to in the Queen's name by the Governor-General, become an Act of Parliament and be taken to have been duly passed by both Houses of Parliament, notwithstanding that the Senate has not consented to it, provided those sessions were not held in the same calendar year.

(4) When a Bill is presented to the Governor-General for the Queen's assent in terms of subsection (3), there shall be endorsed on the Bill the certificate of the Speaker of the House of Assembly signed by him that the provisions of this section have been duly complied with in relation to that Bill.

(5) A Bill shall be deemed to be the same Bill as a former Bill sent up to the Senate in the preceding session if, when it is sent up to the Senate, it is identical with the former Bill or contains only such alterations as are certified by the Speaker of the House of Assembly to be necessary owing to the time which has elapsed since the date of the former Bill, or to represent any amendments which have been made by the Senate in the former Bill in the preceding session, and any amendments which are certified by the Speaker to have been made by the Senate in the second session and agreed to by the House of Assembly, shall be inserted in the Bill as presented to the Governor-General for the Queen's assent in terms of this section: Provided that the House of Assembly may, if it thinks fit, on the passage of such a Bill through the House of Assembly in the second session, suggest any further amendments without inserting the amendments in the Bill, and any such suggested amendments shall be considered by the Senate, and, if agreed to by the Senate, shall be regarded as amendments made by the Senate and agreed to by the House of Assembly, but the exercise of this power by the House of Assembly shall not affect the operation of this section in the event of the Bill being rejected by the Senate.

(6) The provisions of this section shall not apply in relation to such a Bill as is referred to in section *thirty-five or one hundred and fifty-two*".

Amendment of section 134 of the South Africa Act, 1909.

8. Section *one hundred and thirty-four* of the South Africa Act, 1909, is hereby amended by the deletion of the words "of senators and" and the words "or, in the case of the first election of the Senate, the Governor-in-Council of each of the Colonies".

Amendment of section 1 of Act 54 of 1926.

9. Section *one* of the Senate Act, 1926, is hereby amended by the substitution in sub-paragraph (ii) of paragraph (b) for the word "ten" of the word "five".

Amendment of section 30 of Act 23 of 1949.

10. Section *thirty* of the South-West Africa Affairs Amendment Act, 1949, is hereby amended—

- (a) by the substitution in sub-section (3) for the word "ten" of the word "five" and for the words "to be a senator, who shall also hold his seat for ten years" of the words "to hold the seat until the completion of the period for which the person in whose stead he is nominated, would have held the seat";
- (b) by the substitution for paragraphs (b) and (c) of sub-section (4) of the following paragraphs:

- “(b) Senators shall be elected by majority vote each voter having one non-transferable vote for every senator to be elected.
- (c) If two or more persons who are at any election of senators candidates for the same seat, receive the same number of votes, a re-election of a senator for that seat shall be held forthwith according to that principle of proportional representation according to which each voter has one transferable vote, and if at such a re-election the said persons again receive the same number of votes, one of the said persons to be determined by the drawing of lots shall be deemed to have been elected as a senator for that seat.
- (d) The Governor-General may make regulations in regard to the election of senators under this section, including regulations in regard to the duties of returning officers in connection with such elections and in regard to the drawing of lots in the circumstances contemplated in paragraph (c).”;
- (c) by the substitution in sub-section (5) for the word “ten” of the word “five”.

Other laws providing for additional senators not derogated from.

**11.** Nothing in this Act contained shall derogate from the provisions of any law in which provision is made for the election or nomination of additional senators.

Short title.

**12.** This Act shall be called the Senate Act, 1955.