



OFFICIAL GAZETTE

EXTRAORDINARY
OF SOUTH WEST AFRICA.

BUITENGEWONE OFFISIELLE KOERANT

UITGAVE OP GESAG.

VAN SUIDWES-AFRIKA.



PUBLISHED BY AUTHORITY.

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Government Notice.

The following Government Notice is published for general information.

L. M. AMBLER,
Actg. Secretary for South West Africa.

Administrator's Office,
Windhoek.

Goewermentskennisgewing.

Die volgende Goewermentskennisgewing word vir algemene inligting gepubliseer.

L. M. AMBLER,
Waaru. Sekretaris van Suidwes-Afrika.

Kantoor van die Administrateur,
Windhoek.

No. 291.]	(19th June, 1951.	No. 291.]	(19 Junie 1951.
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ORDINANCES, 1951: PROMULGATION OF.

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:—

No.	Title.	Page.
11.	Game Preservation Ordinance, 1951.	1795
12.	Transfer Duty Ordinance, 1951.	1805

ORDONNANSIES, 1951: UITVAARDICING VAN.

Dit het die Administrateur behaag om sy goedkeuring te heg, ooreenkonslig artikel *vier-en-dertig* van „De Zuidwest-Afrika Konstituut Wet 1923“ (Wet 42 van 1923), aan die volgende Ordonnansies wat hiermee vir algemene inligting gepubliseer word, ooreenkonslig artikel *vier-en-dertig* van genoemde Wet:—

No.	Title.	Bladsy.
11.	Ordonnansie op Wildbeskerming 1951.	1795
12.	Ordonnansie op Hereregtie 1951.	1805

No. 11 of 1951.

No. 11 van 1951.

ORDINANCE

To consolidate and amend the law relating to the preservation of game.

(Assented to 8th June, 1951).

(Afrikaans text signed by the Administrator).

BE IT ORDAINED by the Legislative Assembly for 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—
“big game” means any species of game included in the First Schedule to this Ordinance, or either sex of any such species;

“Board” means the Game Preservation and Hunting Board established under the provisions of section two;

“biltong” means game meat which has been dried, cured or in any other manner prepared for the purposes of preservation;

“game” means “protected game”, “big game” and “small game” as herein defined;

“game warden” means any person appointed in terms of sub-section (1) of section four of this Ordinance;

“hunt” means kill, shoot at, capture or attempt to capture, follow or search for or lie in wait for with intent to kill, shoot or capture, or wilfully disturb;

“occupier” means a lessor of land who is in actual occupation of such land under an agreement in writing with the owner thereof; or any person hiring grazing rights on land owned by the Administration (such person being commonly known as a grass licensee or grazing licensee);

“this Ordinance” includes the regulations framed thereunder;

“owner” in relation to land means the registered owner of such land, or the bona fide purchaser of such land before registration of deed of transfer in his name; or the lawful heir of the owner at his death, or if such land is subject to a usufruct, the usufructuary thereof, and in the case of land subject to the control of a local authority the town clerk or secretary thereof; or any person hiring land from the Administration under the laws for the time being in force relating to land settlement;

“police officer” means a European member of the South African Police;

“protected game” means any species of game included in the Second Schedule to this Ordinance, or either sex of any such species of game;

“Secretary” means the Secretary for South West Africa;

“sell” means sell, barter, offer or expose for sale or give, or offer for any valuable consideration;

“small game” means any species of game included in the Third Schedule to this Ordinance, or either sex of any such species;

“sufficient fence” means when applied to wire fences a fence having not less than four strands of well galvanised wire, with straining posts not more than five hundred yards apart, and iron standards (these shall weigh not less than fourteen pounds avoirdupois each) or hardwood poles (these shall be at least four inches in diameter at the thin end and be planted not less than two feet deep in the ground) at not more than ten, fifteen or twenty yards apart, with not less than two, three or four droppers (if hardwood droppers are used, these shall be at least one and a half inches in diameter at the thin end) between them respectively; in other cases it means any fence, wall or hedge through which no game could pass without breaking the same, or any natural boundary through or across which no game would ordinarily pass.

ORDONNANSIE

Ter konsolidering en wysiging van die Wildbeskeringswette.

(Goedgekeur 8 Junie 1951).

(Afrikaanse teks deur die Administrateur geteken).

Die Wetgewende Vergadering vir die Gebied Suidwes-Afrika, met die toestemming van die Gouverneur-generaal vir soverdaardie toestemming nodig is, nadat dit ontvang is en deur hoodskap van die Administrator aan die Wetgewende Vergadering meegeleid is ooreenkomsdig die bepalinge 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, waar dit bestaanbaar is met die verband, beteken—

„grootwild“ elke soort wild genoem in die eerste bylae van hierdie Ordonnansie, of die een of die ander geslag daarvan;

„Raad“ die Wildbeskermings- en Jagraad wat ingestel word by artikel twee;

„biltong“ wildsvleis wat gesout, gepekel of andersins ter bewaring toeberei is;

„wild“ ook „heskerme wild“, „grootwild“ en „kleinwild“ soos hierin omskryf;

„wildbewaarder“ iemand wat aangestel is ingevolge sub-artikel (I) van artikel vier van hierdie Ordonnansie;

„jag“ die doodsnaak; skiet op, vang of probeer vang, agtervolg of oopsoor, of inweg met die oogmerk om dood te maak, te skiet of te vang, of om opstel te stuur;

„bewoner“ die huurder van grond wat werkelik daarop woon kragtens skriftelike ooreenkoms met die eienaar daarvan; of iemand wat weidingsregte op Administrasiegrond huur (so iemand staan in die omgang bekend as graslisenisseur of weidingslisenisseur);

„hierdie Ordonnansie“ ook die regulasies daarkragtens uitgevaardig;

„eienaar“ ten opsigte van grond, die geregistreerde eienaar van sodanige grond, of voor registrasie van die transportakte op sy naam die koper te goeder troet daarvan of by oorlyde van die eienaar die wetlike erfgenaam of, waar sodanige grond aan vruggebruik onderhewig is, die betrokke vruggebruiker, en by grond onder beheer van ‘n plaaslike overheid, die staatsklerk of sekretaris daarvan; of iemand wat uit hoofde van bestaande landnederstellingswette grond van die Administrasie huur;

„geregsdienaar“ ’n blanke lid van die Suid-Afrikaanse Politiemagte;

„heskerme wild“ elke wildsoort inbegrepe by die tweede bylae van hierdie Ordonnansie, of die een of ander geslag daarvan;

„Sekretaris“ die Sekretaris van Suidwes-Afrika;

„verkoop“ die verkoop, verruil, te koop aangebied of daar toe ten toon stel, of skenk, of aanbied vir genoteerde waarde;

„kleinwild“ elke soort wild, inbegrepe by die derde bylae van hierdie Ordonnansie, of die een of die ander geslag daarvan;

„voldoende omheining“ waar dit gebesig word ten opsigte van draadheining, ’n heining met minstens vier goed gegalyvaniseerde drade, met trekkale hoogte vyf honderd jaars uitneekaar en ysterstaanders (elk minstens veertig pond grof gewig) of hardhoutpale (elk minstens vier duim dik op sy dunste en minstens twee voet diep in die grond geplant) hoogsens tien, vyftien of twintig jaars uitneekaar, met minstens twee, drie of vier hangpaaltjies (die hangpaaltjies hardhout moet hul minstens anderhalvduim dik wees by hul dun punt) onder-skiedlik tessentjin; andersins beteken dit ’n heining, muur of heg waardeur geen wild gewoonweg sou kan dring sonder om dit te breek nie, of ’n natuurlike grens waardeur of waaroor geen wild gewoonweg sou gaan nie.

2. (1) The Administrator shall establish a Board to be known as the Game Preservation and Hunting Board.

(2) The Board shall consist of not less than five members to be appointed by the Administrator of which three shall form a quorum.

(3) The Administrator may from time to time increase the number of the members of the Board should he so deem fit.

(4) The members of the Board shall choose one of their number as chairman, who shall convene all meetings of the Board. If the chairman is unable to convene a meeting any three other members may convene a meeting. If at any meeting of the Board the chairman is absent, the members present shall choose one of their number as chairman at that meeting.

(5) The member presiding at any meeting of the Board shall have a deliberative as well as a casting vote.

(6) The Administrator may appoint new members to the Board and may appoint persons to fill casual vacancies which may arise. Every person appointed to fill a casual vacancy shall hold office for the remainder of the period for which his predecessor would have remained in office.

(7) All appointments to the Board shall be notified in the Gazette.

3. (1) The functions and duties of the Board shall be—

(i) to investigate and report on all such matters concerning the preservation of game as may be referred to it by the Administrator;

(ii) to make such recommendations to the Administrator as it may deem fit regarding the preservation of game or any amendment to the laws of the Territory concerning game;

(iii) to meet at Windhoek at least once in every year;

(iv) such further functions, powers and duties as the Administrator may by regulation prescribe.

(2) Any person obstructing, resisting or hindering the Board or any of its members in the execution of its or his duties shall be guilty of an offence.

4. (1) The Administrator may appoint one or more suitable persons for each magisterial district in the Territory to act as game wardens. Such appointments may be made in an honorary capacity, or subject to the laws relating to the public service, as officers of the Administration.

(2) It shall be the duty of every game warden to report to the nearest police post any contravention or suspected contravention of the provisions of this Ordinance that comes to his notice, and he shall further be vested with all the powers of arrest given to a police officer, in terms of section twenty-six of the Criminal Procedure and Evidence Proclamation, 1935 (Proclamation No. 30 of 1935), in so far as any contravention of the provisions of this Ordinance is concerned, in the magisterial district in respect of which he has been appointed.

(3) The Administrator may at any time remove from office any game warden appointed in an honorary capacity and appoint another suitable person in his place.

(4) Should any game warden be absent from or unable to fulfil his duties, or should he resign from his office, the Administrator may appoint another game warden in his place.

(5) All appointments in terms of this section shall be notified in the Gazette.

(6) Any person obstructing, resisting or hindering a game warden in the execution of his duties shall be guilty of an offence.

5. (1) The Administrator may from time to time by notice in the Gazette—

(a) prescribe, fix and alter either for the whole Territory or for any district or portion of a district thereof the period of the close season (which may include the whole year) within which it shall not be lawful (save as in this Ordinance is excepted) and subject to such exceptions in favour of an owner or occupier of land as set out in such notice, to hunt any species of big game or small game or one or other sex of any species of such game; or declare that there shall be no close season for any species of big game or small game or for one or other sex of any species of such game either throughout the whole Territory or throughout any district or any portion of a district thereof;

(b) impose a limit in respect of either the whole Territory or in respect of any district or portion of a district thereof upon the number of any species or of one or other sex of any species of big game or small game which may be hunted under any game licence or by an owner or occupier of land only;

2. (1) Die Admininistrateur stel 'n Raad in met name die Wildbeskermings- en Jagraad.

(2) Minstens vyf lede, wat deur die Admininistrateur aangestel word, dien in die Raad, en drie lede is 'n kworum.

(3) Die Admininistrateur kan die leletal van die Raad van tyd tot tyd na goedhukke verhoog.

(4) Die lede van die Raad kies 'n mede-lid tot voorsteler, en hy roep al hul byeenkomste saam. Kan die Voorsteler so 'n byeenkomste nie saanroept nie, kan drie ander lede die byeenkomste saanroept. Is die voorsteler by 'n byeenkomste van die Raad afwesig, kies die teenwoordige lede 'n mede-lid tot voorsteler by daardie byeenkomste.

(5) Hy elke byeenkomste het die voorsittende lid 'n gewone en 'n beslissende stem.

(6) Die Admininistrateur kan nuwe lede in die Raad aangestel, en kan persone aanstel om toevallige vakature te vul. Elke lid wat hy in toevallike vakature aangestel word, voltooi die amptertym van sy voorganger.

(7) Elke aanstelling in die Raad word in die *Offisiële Koerant* bekendgemaak.

3. (1) Die werkzaamhede en pligte van die Raad is—

(i) om al die wildbeskermingsaangeleenthede deur die Admininistrateur aan die Raad opgedra, te ondersoek, en daaroor verslag te doen;

(ii) om na goeddruke by die Admininistrateur aanbevelings oor wildbeskerming te doen en wysigings tot die Gebied se wildbeskermingswette voor te stel;

(iii) om minstens een keer per jaar te Windhoek byeen te kom;

(iv) om bowendien die werkzaamhede, magte en pligte uit te oefen wat die Admininistrateur by regulasie aan die Raad voorskryf.

(2) Elk een wat die Raad as sodanig, of 'n raadslid, by die uitvoering van sy pligte belêmmer, teengaan of steur, is skuldig aan 'n oortreding.

4. (1) Die Admininistrateur kan een of meer geskikte persone as wildbewaarders vir elke magistratsiedistrik in die Gebied aanstellen. Sodanige aanstelling kan in ere-hoedanigheid geskied, of onderhewig aan die staatsdienswette, wanneer sodanige aangestelde amptenare van die Admininistraturus is.

(2) 'n Wildbewaarder moet elke oortreding of verdagte oortreding van die bepaling van hierdie Ordonnansie, wat onder sy aandag kom, by die naaste polisiepos aannem, en waar dié oortredings van die bepaling van hierdie Ordonnansie betrek, het elke wildbewaarder voorts in die magistratsiedistrik ten opsigte waarvan hy aangestel is, al die magte tot arrest waaronder geregtigheidsonreënkonstig artikel *seventy-twenty* van die Kriminale Prosesure en Bewysewering Proklamasie 1935 (Proklamasie van 1935) beskik.

(3) Die Admininistrateur kan te eniger tyd 'n wildbewaarder wat in ere-hoedanigheid aangestel is, ontslaan, en 'n ander geskikte persoon in sy plek aanstel.

(4) Indien 'n wildbewaarder wan sy pos afwesig is, of andersy sy pligte nie kan waarneem nie, of indien hy uit sy amptbedank, kan die Admininistrateur 'n ander wildbewaarder in sy plek aanstel.

(5) Alle aanstellings ingevalle hierdie artikel word in die *Offisiële Koerant* bekendgemaak.

(6) Elk een wat 'n wildbewaarder by die uitvoering van sy pligte belêmmer, teengaan of steur, is skuldig aan 'n oortreding.

5. (1) Die Admininistrateur kan van tyd tot tyd by kennisgewing in die *Offisiële Koerant*—

(a) ten opsigte van die hele Gebied, of die geheel of 'n deel van 'n distrik daarvan, die geskte tyd (wat 'n hele jaar mag duur) voorskryf, vasstel en wysig, en daarbinne is die jag op enige soort groot- of kleinwild, of op die een of die ander geslag van enige soort sodanige wild onwettig (inhoudens die uitsonders in hierdie Ordonnansie), en onderhewig aan sodanige uitsonders ten gunste van 'n eienaar of bewoner van grond soos in sodanige kennismetting aangegeven word, of verklare dat daar geen geskte tyd moet wees nie vir 'n sekere soort groot- of kleinwild, of vir die een of ander geslag van enige soort sodanige wild, of dwarselser die hele Gebied, of dwarselser 'n distrik of 'n gedeelte van 'n distrik daarvan;

(b) 'n beperking stel, ten opsigte van die hele Gebied of ten opsigte van 'n distrik of gedeelte van 'n distrik daarvan, op die getal van enige soort, of van die een of die ander geslag van enige soort groot- en kleinwild waarop daar ingevalle 'n wildsensie, of slags deur 'n eienaar of bewoner van grond gejag mag word;

(c) vary, add to or withdraw from any category of game in this Ordinance the name of any bird or animal either in respect of the whole Territory or any district or districts thereof.

(2) Until otherwise prescribed under the provisions of paragraph (a) of sub-section (1) of this section the close season for all game other than protected game (with the exception of all varieties of wild duck and geese) shall be from the first September in any year to the thirtieth April (both days inclusive) in the following year.

(3) Until otherwise prescribed under the provisions of paragraph (a) of sub-section (1) of this section the close season for all varieties of wild duck and geese shall be from the first of September in any year to the last day of February in the following year.

6. (1) No person other than the lawful holder of a permit issued under the authority of the Administrator shall at any time hunt protected game.

(2) Such permits may be issued on such conditions as to the amount (if any) payable, the number of animals or birds to be taken or shot, the time when and the locality where the hunting is permitted, and generally as the Administrator, having due regard to the purposes, whether scientific or otherwise, for which the permit is issued, shall deem fit.

(3) The Administrator may differentiate between the amounts to be paid by owners or occupiers of land and by other persons.

(4) Any person who contravenes any of the provisions of this section or any condition of a permit issued under this section shall be guilty of an offence and shall upon conviction be liable to a fine not less than twenty-five pounds and not exceeding five hundred pounds or in default of payment to imprisonment for a period not exceeding two years.

7. (1) No person other than the lawful holder of a big game licence shall (save as in this Ordinance is otherwise provided) hunt big game.

(2) A big game licence shall be issued under the hand of the Secretary or any person duly authorised thereto by him and shall enable the lawful holder to hunt such big game in such locality or localities as may be stated on the licence and subject to such conditions as may be stated thereon: Provided that the Secretary or any such authorised person may without reason assigned refuse to issue any such licence: Provided further that every refusal by any such authorised person shall forthwith be reported to the Secretary for confirmation or otherwise as he may deem fit.

* (3) A big game licence shall be valid for a period of thirty days: Provided that when owing to the fact that the open season closes on a particular date such licence cannot be issued for the full period of thirty days it may be issued for such lesser period terminating on such date. A big game licence may be renewed for further periods of thirty days at a time or for the lesser period specified in this sub-section. Such big game licensee shall authorise the hunting of one head of big game only during the period specified in the licence and no person shall be entitled to more than one big game licence for any such period. For each big game licence taken out or renewed there shall be payable the sum of one pound.

(4) Any person who contravenes any of the provisions of this section or who fails to comply with any condition of a big game licence shall be guilty of an offence and liable on conviction to a fine of not less than fifteen pounds and not exceeding one hundred pounds or in default of payment to imprisonment for a period of not exceeding six months.

8. (1) Any owner or occupier of land may without licence hunt on such land during the open season any number of big game: Provided that such owner or occupier shall not during any open season hunt any species of big game or any individual of one or other sex of any species of big game which may not lawfully be hunted during that season in the district in which such land is situated.

(2) The owner and occupier of any such land shall not both hunt big game without licence thereon during the same open season, and the right so to hunt shall be deemed to be vested in the owner unless he is absent from the Territory or unless he shall have transferred such right to the occupier in writing.

(3) Any owner of land may exercise the rights given him under sub-section (1) in his own person and also through any one or more of his children and any European or Europeans permanently employed by him and resident upon such land.

(4) Any owner or occupier of land who during any open season hunts on such land any species of big game or any individual of one or other sex of any species of big game which may not lawfully be hunted during the season in the district in which such land is situated shall be guilty of an offence and liable on conviction to a fine of not less than fifteen pounds and not exceeding one hundred pounds or in default of payment to imprisonment not exceeding six months.

(c) die naam van enige voël of dier, in enige klas wild in hierdie Ordonnansie genoem ten opsigte van die hele Gebied of van enige distrik of distrikte daarvan, verander, daartoe byvoeg of daaruit verwyder.

= (2) Tot tyd en wyl andersins voorgeskryf ingevolge die bepalings van paraagraaf (a) van sub-artikel (1) van hierdie artikel is die geslote tyd vir alle wild, behalwe beskerme wild (uitgesondelike soort wille-eend en -gans) die tydperk vanaf een September van elke jaar tot dertig April van die daarvolgende jaar (albei inbegrepe).

= (3) Tot tyd en wyl andersins voorgeskryf ingevolge die bepalings van paraagraaf (a) van sub-artikel (1) van hierdie artikel is die geslote tyd vir elke soort wille-eend en -gans die tydperk vanaf een September van elke jaar tot die laaste dag van Februarie van die daaropvolgende jaar.

6. (1) Niemand behalwe die wettige houer van 'n permit uitgereik ingevolge magtiging van die Administrateur mag te eniger tyd beskerme wild jag nie.

(2) Sodanige permitte kan uitgereik word op sodanige voorwaarde betreffende die bedrag betaalbaar, die getal diere of voëls wat geneem of geskiet mag word, die tyd wanneer en die plek waar die jag toegelaat word, en ander algemene voorwaarde, soos die Administrateur, met behoorlike inagneming van die doeleindes hetys wetenskaplik of andersins, waaraan die permit uitgereik is, wenslik ag.

(3) Die Administrateur kan 'n verskil maak tussen die houers wat deur eienaars of bewoners van grond en deur ander personele betaalbaar is.

(4) Iemand wat 'n bepaling van hierdie artikel of enige voorwaarde van 'n permit kragtig hierdie artikel uitgereik, verontgaan, is skuldig aan 'n oortreding en is hy skuldigheidsvinding strafbaar met 'n boete van minstens vyf-en-twintig pond en hoogstens vyfshonderd pond, of by wanbetalung met gevangenisstraf van hoogstens twee jaar.

7. (1) Behoudens die andersluidende bepalings van hierdie Ordonnansie, mag slegs die houer van 'n grootwildlisensie grootwild jag.

(2) 'n Grootwildlisensie bly dertig dae van krag; Met dien verstande dat waar die jagtyd op 'n sodanige datum sluit dat die lisensie nie vir 'n volle dertig dae uitgereik kan word nie, die geldingsduur daarvan gestel word op die aantal dae watoorby voordat die sluitingsdatum aanbreuk, 'n Grootwildlisensie kan herne word, of vir nog dertig dae op 'n keer, of vir die korter tyd by hierdie sub-artikel bepaal. So 'n grootwildlisensie verloof die jag op slegs een stuk grootwild binne die termyn van die lisensie, en niemand is geregtig op meer as een grootwildlisensie per sodanige termyn nie. Elke grootwildlisensie, en elke hernewing daarvan, kos een pond.

(3) 'n Grootwildlisensie bly dertig dae van krag; Met dien verstande dat waar die jagtyd op 'n sodanige datum sluit dat die lisensie nie vir 'n volle dertig dae uitgereik kan word nie, die geldingsduur daarvan gestel word op die aantal dae watoorby voordat die sluitingsdatum aanbreuk, 'n Grootwildlisensie kan herne word, of vir nog dertig dae op 'n keer, of vir die korter tyd by hierdie sub-artikel bepaal. So 'n grootwildlisensie verloof die jag op slegs een stuk grootwild binne die termyn van die lisensie, en niemand is geregtig op meer as een grootwildlisensie per sodanige termyn nie. Elke grootwildlisensie, en elke hernewing daarvan, kos een pond.

(4) Elk eenaar wat die bepalings van hierdie artikel oortree, of die voorwaarde van 'n grootwildlisensie verontgaan, is skuldig aan 'n oortreding, en by skuldigheidsvinding strafbaar met 'n boete van minstens vyfpond en hoogstens enhonderd pond, en by wanbetalung met gevangenisstraf van hoogstens ses maande.

8. (1) Eienaar of bewoner van grond kan in die jagtyd op sodanige grond enige hoeveelheid grootwild sonder lisensie jag; Met dien verstande dat so 'n eienaar of bewoner gedurende die jagtyd geen grootwildsoort, of stuk grootwildsoort, van en een of ander geslag waarop die jag nie gedurende daardie jagtyd in die distrik waarin die grond geleë is, wettig is nie, mag jag nie.

(2) Die eienaar en die bewoner van sodanige grond mag nie albei grootwild in dieselfde jagtyd sonder lisensie daarop jag nie, en die reg om dan daer te jag, kom die eienaar toe, tensy hy uit die Gebied afwesig is, of sodanige reg skriftelik aan die bewoner oorgedra het.

(3) Elk eienaar van grond kan die reg wat hom ingevolge sub-artikel (1) hiervan toekom, in die persoon, of deur sy kind of kinders, of deur sy vasie blanke werknemer of werknemers wat op sodanige grond woon, uitvoer.

(4) Elk eienaar of bewoner van grond, wat in die jagtyd op sodanige grond enige soort grootwild, of enige stuk grootwildsoort, van die een of die ander geslag jag wanneer die jag op daardie soort grootwild nie in die distrik waarin die grond geleë is, wettig is nie, is skuldig aan 'n oortreding, en by skuldigheidsvinding strafbaar met 'n boete van minstens vyfpond en hoogstens enhonderd pond, of by wanbetalung met gevangenisstraf van hoogstens ses maande.

9. (1) No person other than the lawful holder of a small game licence issued by a magistrate shall (save as in this Ordinance) is otherwise provided) hunt small game.

(2) A small game licensee shall be subject to such conditions as may be stated thereon and shall be valid for a period of thirty days at a time or any lesser period during the open season. Such licence may be renewed for further periods of thirty days or any lesser period than thirty days. The fee payable for each licence taken out or renewed shall be the sum of one pound.

(3) Any person who contravenes any of the provisions of this section or fails to comply with any condition of a small game licence shall be guilty of an offence.

10. (1) Notwithstanding anything in this Ordinance contained, an owner or occupier of land may, without licence, hunt small game (other than varieties of wild duck and geese) in and upon such property during the period from the first day of May to the thirty-first day of August (both days inclusive) in each year, and all varieties of wild duck and geese during the period from the first day of March to the thirty-first day of August (both days inclusive) in each year: Provided that such owner or occupier shall not during any such period hunt a greater number of any species or of one or other sex of any species of small game than may in accordance with the limits imposed by the Administrator under paragraph (b) of sub-section (1) of section five, be hunted during the open season under a small game licence or by an owner or occupier of land only.

(2) Any owner or occupier who during the period referred to in sub-section (1) hereof hunts on such land a greater number of any species or of one or other sex of any species of small game than may, in accordance with the limits imposed by the Administrator under paragraph (b) of sub-section (1) of section five, be hunted, shall be guilty of an offence.

(3) The owner and occupier of any such land shall not both hunt small game without licence thereon during the same open season, and the right so to hunt without licence shall be deemed to be vested in the owner unless he is absent from the Territory or unless he shall have transferred such right to the occupier in writing.

(4) Any owner of land may exercise the rights given him under sub-section (1) in his own person and also through any one or more of his children and any European or Europeans permanently employed by him and resident upon such land. If the number of one or other sex of any species of small game hunted during the period referred to in sub-section (1) hereof by the owner and the persons through whom he exercises the said rights exceeds the number that may, in accordance with the limits imposed by the Administrator under paragraph (b) of sub-section (1) of section five, be hunted the owner shall be guilty of an offence.

II. (1) Upon its being proved to the satisfaction of the Secretary, or to the satisfaction of any person appointed by him to exercise such discretion, that it is necessary to protect the grazing on any land, the Secretary or any person so appointed may grant to the owner or occupier of such land a permit authorising such owner or occupier to hunt game on such land during any period stated in the permit, subject to such conditions and limitations as may be stated therein. Every refusal by any person so appointed to grant such a permit shall forthwith be reported to the Secretary for confirmation or otherwise, as he may deem fit. Any such owner or occupier who contravenes or fails to comply with any of the conditions of any such permit shall be guilty of an offence.

(2) Whenever game appears on any land in such numbers as to constitute a threat to the grazing on such land the owner or occupier of such land may apply to the police officer in command of the nearest police post or to the nearest game warden for permission to organize a number of persons with the object of driving such game away. If such police officer or such game warden is satisfied that the circumstances warrant the organization of a drive he may grant permission to such owner or occupier to organize such drive. Should such police officer or game warden refuse to grant such permission such owner or occupier shall have the right to appeal to the magistrate of the district wherein such land is situated whose decision shall be final. If such a drive is held such police officer or game warden shall if his duties permit him to do so be present and take part in such drive in order to ensure that no greater number of game is shot than is necessary for the purpose of driving the game away.

(3) Anything to the contrary notwithstanding contained in this Ordinance, it shall be lawful for the owner or occupier of land or any person duly authorised thereto in writing by such owner or occupier to hunt at any time without a licence or permit any game found injuring or damaging crops or plants in cultivated lands or gardens enclosed by a sufficient fence on the land of such owner or occupier; and any game killed under the provisions of this section may be lawfully possessed by such owner, occupier or person, as the case may

9. (1) Andersluidende bepalings van hierdie Ordonansie uitgesond, mag niemand behalwe die wetlike houer van 'n kleinwildlicensie, uitgerik deur 'n magistraat, kleinwild jag nie.

(2) 'n Kleinwildlicensie is onderhewig aan sodanige voorwaarde soos daarin vervat is, en is vir 'n tydperk van dertig dae op 'n keer, of vir 'n korter tydperk gedurende die jaargelyk. So 'n licensie kan vir verdere tydperke van dertig dae of korter herhaal word. Elke sodanige licensie, en elke herhuiwing daarvan, kos een punt.

(3) Elkeen wat 'n bepaling van hierdie artikel oortree of wat 'n voorwaarde van 'n kleinwildlicensie verontgaan, is skuldig aan 'n oortreding.

10. (1) Nieteenstaande andersluidende bepalings in hierdie Ordonansie, kan 'n eienaar of bewoner van grond sonder lisensie kleinwild (buitien die verskillende soorte wilde-eende en -gans) op sodanige grond vanaf een Mei tot een-en-dertig Augustus van elke jaar (albei inbegrepe) jag, en elkee soort wille-eend en -gans vanaf een Maart tot een-en-dertig Augustus van elke jaar (albei inbegrepe). Met dien verstande dat sodanige eienaar of bewoner binne sodanige tyd nie 'n groter getal van enige soort van die een of die ander geslag van enige soort kleinwild mag jag, as wat ooreenkomsig die beperkings deur die Administrator ingevalle paragraaf (b) van sub-artsikel (1) van artikel vyf opgele gedurende die jagtyd met 'n kleinwildlicensie of slegs nieur in eienaar of bewoner van grond gejag mag word nie.

(2) Elke eienaar of bewoner wat in die tydperk genoem in sub-artsikel (1) hiervan op sodanige grond 'n groter getal van enige soort 'n groter getal van die een of die ander geslag van enige soort kleinwild jag, as wat ooreenkomsig die beperkings deur die Administrator ingevalle paragraaf (b) van sub-artsikel (1) van artikel vyf opgele gedurende die jagtyd met 'n kleinwildlicensie of slegs nieur in eienaar of bewoner van grond gejag mag word, is skuldig aan 'n oortreding.

(3) Die eienaar en bewoner van enige sodanige grond mag nie albei in dieselfde jagtyd sonder lisensie daarop jag nie, en die reg om dan sonder lisensie te jag, kom die eienaar toe, tensy hy uit die Gebied awesig is, of sodanige reg skriftelik aan die bewoner oorgedra het.

(4) 'n Eienaar kan die regte hom verleen by sub-artsikel (1) in die persoon uitgeoefen, of deur een of meer van sy kinders, en een of meer van sy vaste blanke werknemers wat op sy grond werk. Indien die getal van die een of die ander geslag van 'n soort kleinwild wat in die tydperk genoem in sub-artsikel (1) hiervan deur die eienaar en die personeel deur wie hy die genoemde regte uitgeoefen, gejag word, moet dit as die aantal wat ooreenkomsig die beperkings deur die Administrator ingevalle paragraaf (b) van sub-artsikel (1) van artikel vyf opgele, gejag mag word, is die eienaar skuldig aan 'n oortreding.

II. (1) Waar daar tut oortuiging van die Sekretaris, of enigeen deur hom aangestel om te leusnit, bewys word dat dit nodig is om weivelid te hewaar, kan die Sekretaris of die persoon aldus aangestel, aan die eienaar of bewoner van sodanige weivelid 'n permit toestaan om self wild op sodanige weivelid te jag binne die tydperk dat daarop genoem is sodanige voorwaarde en beperkings soos daarboven vervat. Elke weivering deur 'n persoon aldus aangestel om sodanige permit uit te reik, moet ewervyld by die Sekretaris aangevind word ter bekragting van verwerpking na goedgehoune. Elke sodanige eienaar of bewoner wat 'n voorwaarde van sodanige permit oortree of verontgaan, is skuldig aan 'n oortreding.

(2) Wanneer soveel wild op plaasgrond verskyn dat hul die weiding daarop kan beskadig, kan die eienaar of bewoner daarvan by die bevoelende geregdsdiener by die naaste polisiepost of die naaste wildbewaarder verlof annaam om 'n geselskap op die been te bring om die wild te verdryf. Is sodanige geregdsdiener of wildbewaarder nie gevind nie, kan sodanige eienaar of bewoner 'n bereroep doen op die magistraat van die distrik waarin die grond geleë is, en die magistraat se beslissing is afwude. Vind so 'n dryfjag plas, moet sodanige geregdsdiener of wildbewaarder, indien sy pligte dit roetfaat, so 'n dryfjag hyou en daarvan deelneem om te versook dat daar nie meer stuks wild geskiet word as wat nodig is om die wild te verdryf nie.

(3) Nieteenstaande andersluidende bepalings in hierdie Ordonansie, kan die eienaar of bewoner van grond, of enigeen skriftelik deur die eienaar of bewoner daartoe gemachtig, te eniger tyd sonder lisensie of permit enige wild wat geskaaid of plante of beboude land of tuine met voldoende omringing op die grond van sodanige eienaar of bewoner, verniel of beskadig, jag; en enige wild wat ingevalle die bepalings van hierdie artikel doodgetrek is, is die wetlike eiendom van sodanige eienaar, bewoner

ie. The killing of any game under the provisions of this sub-section shall be reported within ten days to the nearest police post. Failure or neglect on the part of the person responsible to make such report as aforesaid shall constitute an offence.

(4) Upon any charge or indictment against any person for contravention of either section seven or section nine, if it appears upon the evidence that the game, the subject of the charge of indictment, was lawfully killed under the provisions of sub-section (3) of this section, but that such killing was not reported as provided in that sub-section, it shall be competent for the court to convict such person for failure so to report.

12. (1) It shall be lawful for the Administrator to authorise the issue of permits to members of the public service, persons employed in a temporary or casual capacity by the Administration, members of the police and to bona fide prospectors to hunt game for the purpose of food supplies during any open or close season while such aforementioned persons in the employ of the Administration and such members of the police are travelling on duty or are stationed either temporarily or permanently, and while such prospectors are engaged in prospecting, in portions of the Territory where adequate food supplies cannot be had by any other reasonable means be obtained. Such permits shall be subject to such conditions and payment of such fees (if any) as the Administrator may deem fit to impose.

(2) Any person who fails to comply with or contravenes any condition of any permit issued under sub-section (1) hereof shall be guilty of an offence.

13. (1) When the Administrator is satisfied that certain species of big game or small game are required for any public museum, zoological garden or scientific institution or for scientific purposes or for domestication or acclimatisation, it shall be lawful for him to authorise the issue of a permit to any person to hunt and kill or capture such big game or small game at any time. Such permits shall be subject to such conditions as the Administrator may deem fit to impose, more particularly as to the amount of fee payable (if any), the number of animals or birds to be killed or captured, the time when and the locality where the hunting is to take place.

(2) Any person who fails to comply with or contravenes any condition of any permit granted under sub-section (1) shall be guilty of an offence and liable to the following penalties, to wit—

(a) in the case of a permit relating to big game to a fine not less than fifteen pounds and not exceeding one hundred pounds or in default of payment to imprisonment for a period of not exceeding six months; and

(b) in the case of a permit relating to small game to the penalty prescribed by section thirty-three of this Ordinance.

14. (1) No person shall without a permit issued under the authority of the Administrator and subject to such conditions as he may deem proper, intentionally kill, capture or hunt game by any other means than by shooting; provided that nothing herein contained shall be deemed or taken to prohibit the employment of beaters or dogs for the purpose of finding game.

(2) When any person is convicted under the provisions of sub-section (1) of killing, capturing or hunting game by means of a dog, the court convicting such person may order the dog to be destroyed.

(3) No person shall shoot at any species of antelope coming under the description of big or small game with any firearm of a smaller calibre than 6.5 millimetres. Provided that small game shall not be shot with round-nosed solid steel bullets and that a firearm of smaller calibre than 6.5 millimetres may only be used for the hunting of small game excepting springbuck.

(4) No person shall convey in any vehicle any firearm (other than in a securely fastened case or cover) along any road in the Territory unless such person is the owner or occupier of the land upon which such road is situated or a member of the family of such owner or occupier residing with him or has the right to hunt game or any other animal on such land.

(5) Any person who contravenes any of the provisions of this section or who contravenes or fails to comply with any condition of a permit issued in terms of sub-section (1) shall be guilty of an offence.

of persoon, al na gelang. Die doodmaak van enige wild ingevolge die bepaling van hierdie sub-artikel moet binne teen dae wat die voorstelling van die polisiepos nangemel word. Indien die verantwoordelike persoon versuin of nalat om sodanige bogenoemde aanmelding te doen, is hy skuldig aan 'n oortreding.

(4) As daar by enige aanklag of beskuldiging teen 'n persoon weens oortreding van of artikel seven of artikel nine, of die getuenis blyk dat die wild wat die onderwerp van die akte van beskuldiging of aanklag uitmaak wettig ingevolge die bepaling van sub-artikel (3) van hierdie artikel doodgemaak is, maar dat die doodmaak nie aangehou is soos bepaal by daardie sub-artikel nie, is die hof bevoeg om sodanige persoon skuldig te bevind aan versuin om sodanige aanmelding te doen.

12. (1) Die Administrateur kan goedkeur dat permitte uitgereik word aan lede van die staatsdiens, aan persone wat in 'n tydelike of toevalige hoedanigheid deur die Administrasie in diens geneem word, aan lede van die polisie en aan bona fide prospektoreers, om wild vir voedsel in enige jagtyd of geslote tyd te jag, terwyl sodanige voormalige persone in die diens van die Administrasie en sodanige lede van die polisie amptslawreis, of tydelik of permanent gestasioneer is, en terwyl sodanige prospektoreers hulle met prospekteer besig hou in dele van die Geelid waar genoemde voedsel op geen ander rodelike wyse verkry kan word nie. Sodaanige permitte is onderhewig aan sodanige voorwaarde en betaling van geldie soos die Administrateur na goedkeun oply.

(2) Elkeen wat versuin om enige voorwaarde van 'n permit uitgereik ingevolge sub-artikel (1) hiervan, na te kom, of dit verontgaan, is skuldig aan 'n oortreding.

13. (1) Is die Administrateur oortuig dat 'n openbare museum, dieretuin of wetenskaplike instigting bepaalde soorte groot- of kleinwild nodig het, of dat hulle nodig is om die wetenskap, of ter inmaakking of inburgering, kan hy goedkeur dat enigeniet 'n permit ontvang om sodanige groot- of kleinwild te eniger tyd te jag, daarof te maak of te vang. Sodaanige permitte is onderhewig aan sodanige voorwaarde soos die Administrateur na goedkeun diere,veral wat betref die gelde moontlik betaalbaar, die getal diere of voëls wat doodgemaak of gevang mag word, die tyd wanneer en die plek waar die jag moet plaasvind.

(2) Elkeen wat versuin om die voorwaarde van 'n permit uitgereik ingevolge sub-artikel (1) hiervan na te kom, of verontgaan, is skuldig aan 'n oortreding en onderhewig aan die volgende strawe—

(a) by 'n permit betreffende grootwild aan 'n boete van minstens vyfentig pond en hoogstens eenhonderd pond of by wanbetaling aan gevangenisstraf van hoogstens ses maande; en

(b) by 'n permit betreffende kleinwild aan die straf bepaal by artikel drie-en-dertig van hierdie Ordonnansie.

14. (1) Wild mag slegs onder 'n permit uitgereik met die goedkeuring van die Administrateur en onderhewig aan sodanige voorwaarde soos hy goedkeun of bepaal doodgemaak, gevang of gejag word, buiten deur te skiet: Met dien verstande dat hierdie artikel geensins 'n verbod op die gebruik van opjaars of honde by die opsoek van wild is nie.

(2) Wanneer iemand ingevolge die bepaling van sub-artikel (1) daarvan skuldig bevind word dat hy wild met 'n hond doodgemaak, gevang of gejag het, kan die hof wat sodanige persoon skuldig bevind het, beveel dat die hond vernietig word.

(3) Niemand mag op enige soort wildehok wat onder die beskywing groot- of kleinwild ressorteer met 'n vuurwapen van 'n kleiner kaliber as 6.5 millimeter skiet nie: Met dien verstande dat kleinwild nie geskiet mag word met soliede rondepunt staalkoëls nie en dat 'n vuurwapen met kaliber kleiner as 6.5 millimeter alleen gebruik mag word vir die jag van kleinwild, uitgesonder springbokke.

(4) Niemand mag op enige voertuig op enige pad in die Geelid 'n vuurwapen (behalwe in 'n goed-vagemaakte kis of sak) vervoer nie, tensy sodanige persoon die eenaar of bewoner is van die grond waarop die pad geleë is, of 'n lid van die gesin van sodanige eenaar of bewoner is en by hom inwoon of die reg het om wild of enige ander dier op sodanige grond te jag.

(5) Elkeen wat enige van die bepaling van hierdie artikel vermensaam, of wat enige voorwaarde van 'n permit uitgereik ingevolge sub-artikel (1) verontgaan of versuin om dit na te kom, is skuldig aan 'n oortreding.

15. (1) Any person who makes use of artificial light in connection with the hunting of game shall be guilty of an offence, save as provided in section eleven.

(2) Any person who makes use of a motor vehicle or any form of aircraft for the purpose of hunting game or drives, stampedes or disturbs game by means of any such motor vehicle or aircraft for any purpose whatsoever, including that of filming or photography, shall be guilty of an offence; Provided that nothing herein contained shall be deemed to be taken to prohibit the lawful owner or occupier of land from using motor vehicles or aircraft for the purpose of driving away or destroying animals under the circumstances provided for in sub-sections (2) and (3) of section eleven of this Ordinance.

16. (1) Save as in sections eight and ten provided no person shall hunt game upon land owned by the Administration except under written permit signed by the magistrate of the district in which such land is situated which may be issued upon payment of such fees and subject to such conditions as the Administrator may prescribe. Provided that no such permit shall be valid in respect of land owned by the Administration and leased except with the written consent of the lessee thereof.

(2) No person shall hunt game upon private property without the written consent of the owner or occupier thereof. For the purposes of this sub-section land subject to the control of a local authority and land owned by the Administration and leased under the laws relating to land settlement or in respect of which grazing rights have been let, shall be deemed to be private property.

(3) Any person found hunting game on land owned by the Administration or private land may be requested by the owner or occupier thereof or other authorised person to produce his authority to hunt upon such land, and if he fails to produce such authority he may be ordered to furnish his true name and address and to depart forthwith. Any person who fails or neglects to comply with any such order shall be guilty of an offence.

(4) Any dog found in pursuit of game upon any land, may be forthwith destroyed by or on the order of the owner or occupier of such land.

(5) Any person who contravenes the provisions of subsection (1) or who fails to comply with any condition of any permit issued in terms of that sub-section shall be guilty of an offence.

17. (1) Save as in sub-section (2) is provided, no person shall at any time wilfully take away, disturb, destroy, sell, or expose for sale or purchase the eggs of any game birds.

(2) It shall be lawful for the Administrator to authorise the issue of a permit to any fit and proper person to take or carry away the eggs of any game birds for the purpose of rearing or breeding the same or for purposes of scientific investigation. Such permit shall state the number and variety of the eggs which the holder is empowered to obtain or take and shall be subject to such other conditions as the Administrator may deem fit to impose.

(3) Any person who contravenes the provisions of subsection (1) or who fails to comply with any condition of any permit issued in terms of sub-section (2) shall be guilty of an offence. Upon conviction, any eggs in respect of which the conviction was obtained shall be confiscated to the Crown.

18. (1) Any European police officer or game warden may without a search warrant, search any hut, tent, camping place, vehicle or receptacle belonging to or in the custody of a person other than the owner or occupier of the land on which the search is effected, if in either case the person effecting the search has reason to suspect that the place or article in question contains any game or any part of the carcass of game, and the person effecting such search may seize any game or any part of the carcass of game found by him during such search or any article or thing with which any offence under this Ordinance was committed.

(2) Any person who obstructs any person mentioned in sub-section (1) in effecting any search under that sub-section shall be guilty of an offence.

15. (1) Elkeen wat by die jag op wild gebruik maak van kunsmatige lig is skuldig aan 'n oortreding, behoudens die bepaling van artikel elf.

(2) Elkeen wat met die doel om wild te jag, gebruik maak van 'n motorvoertuig of enige soort vliegtuig, of wat met water doel hoegenaamd, insluitende dié van verfiling van fotografie, wild met sodanige muntvoertuig of vliegtuig aandryf, op loop-jag of hinder, is skuldig aan 'n oortreding. Met dien verstande dat niks hierin verwat beskou moet word as 'n verbod nie die wettige eienaar of bewoner van grond om motorvoertuig of vliegtuig te gebruik om diere in die onstaanlikeheid bepaal by sub-artikels (2) en (3) van artikel elf van hierdie Ordonansie te verdryf of te vernietig nie.

16. (1) Behoudens die bepaling van artikels agt en tien mag niemand wild jag op grond behorende aan die Administrasie nie, lêhalwe kragteus 'n skriftelike permt, onderteken deur die magistrat van die distrik waarin sodanige grond geleë is wat uitgerek kan word hy botaling van sodanige gelde en onderhavig aan sodanige voorwaarde soos die Administrasie bepaal. Met dien verstande dat 'n sodanige permt nie geldig is ten opsigte van grond behorende aan die Administrasie wat verhuur is nie, tensy die skriftelike toestemming van die huurder daarvan verkry word.

(2) Niemand mag op private eiendom wild jag sonder die toestemming van die eienaar of bewoner daarvan nie. Vir die doeldeels van hierdie sub-artikel (2), word grond wat onder die beheer van 'n plaaslike bestuur is en grond wat aan die Administrasie behoort en ingevolge die wette betreffende laundredesetting verhuur is, of ten opsigte waarvan weidingsregte verhuur is, beskou as private eiendom.

(3) Die eienaar van private grond of die bewoner van grond behorende aan die Administrasie of 'n ander daartoe genoemde persoon wat niemand op sodanige grond by die jag op wild aantraf, kan sodanige persoon versook om sy magtiging om op sodanige grond te jag, te toon, en indien die jagter dit weier, kan hy bevel word om sy ware naam en adres te gee en onmiddellik die grond te verlaat. 'n Persoon wat versuum of nalaat om sodanige bevel te gehoorsaam is skuldig aan 'n oortreding.

(4) 'n Hond wat op enige grond wild aanjaag kan onmiddellik vernietig word, of op bevel van, die eienaar of bewoner van sodanige grond.

(5) Elkeen wat die bepaling van sub-artikel (1) verontgaan is of wat die voorwaarde van 'n permt uitgereik kragteus daar die sub-artikel nie nakom nie, is skuldig aan 'n oortreding.

17. (1) Behoudens die bepaling van sub-artikel (2) mag niemand ooit met opset die eiers van wildvogels verwilder, steur, vernietig, verkomp, vent, vir verkoop ten toon stel of koop nie.

(2) Die Administrasie kan die uitreiking van 'n permt aan 'n geskikte persoon goedkeur om die eiers van wildvogels te neem of te verwilder met die doel om hulle te laat uitbroei of die kuikens groot te maak, of vir wetenskaplike ondersoek. Sodanige permt moet die getal en soort eiers wat die houer daarvan geregtig is om te kry of te neem, aangee, en is onderhavig aan sodanige ander voorwaarde soos die Administrasie na goedkeur ople.

(3) Elkeen wat die bepaling van sub-artikel (1) verontgaan is, of wat die voorwaarde van 'n permt uitgereik ingevolge sub-artikel (2) versuum, is skuldig aan 'n oortreding. By skuldigheid word alle eiers ten opsigte waarvan die skuldigheidsvinding verkry is, aan die Kroon verbeer.

18. (1) Elké blanke geregsdienaar of wildbewaarder kan sonder 'n lasbrief tot vissering enige hut, tent, kampeerplek, voertuig of houer wat behoort aan, of onder die sorg is van 'n persoon behalwe die eienaar of bewoner van die grond waarop die soektag uitgereik word, deursoek, indien in elke geval die persoon wat die soektag uitvoer rede het om te vernietig dat die bewuse pick of ding, wild of 'n deel van die karkas van wild bevat, en die persoon wat sodanige soektag uitvoer kan op alle wild of dele van die karkasse van wild wat hy by sodanige soektag aantref, of enige middel of ding waarmee hy in oortreding ingevolge hierdie Ordonansie gepleeg is, beslag le.

(2) Elkeen wat iemand genoot in sub-artikel (1) hinder by die uitvoering van die soektag kragteus daardie sub-artikel is skuldig aan 'n oortreding.

19. It shall not be lawful for any person to export from this Territory any elephant tusk or portion thereof without a permit from the Administrator. Any person who contravenes the provisions of this section or who fails to comply with any condition of any permit issued hereunder shall be guilty of an offence and liable on conviction to a fine of not less than twenty-five pounds and not exceeding five hundred pounds or in default of payment to imprisonment for a period of not exceeding two years.

20. Any police officer or game warden may at any time demand the production of any licence or permit issued under this Ordinance from any person found hunting, and may demand the name and address of such person, and any person refusing to produce his licence or permit or to give his name and address when so required shall be guilty of an offence.

21. (1) It shall be unlawful for any assemblage of persons formed in the Union or any other country or territory with the object of hunting game in the Territory to enter the Territory for that purpose.

(2) Every member of such an assemblage of persons who enters the Territory in contravention of sub-section (1) shall be guilty of an offence.

(3) Any member of such assemblage of persons as is in sub-section (1) defined who enters the Territory in contravention of that sub-section shall not be issued with a licence to hunt game under the provisions of this Ordinance.

22. (1) Subject to the provisions of section eleven, no person shall hunt any game during the period half an hour after sunset on any day and half an hour before sunrise on the following day.

(2) Any person contravening the provisions of sub-section (1) shall be guilty of an offence.

23. (1) No person shall sell any game or the flesh of any game (whether fresh or dried) or any game biltong; Provided that the owner or occupier of any land may sell such species of game (or the fresh flesh thereof) as the Administrator may from time to time by notice in the *Gazette* determine may be sold under the provisions of this sub-section.

(2) No person shall knowingly purchase any animal or bird which is game or the flesh of any game (whether fresh or dried) or any game biltong; Provided that nothing herein contained shall be deemed to prohibit any person from purchasing from the owner or occupier of any land any of such species of game or the fresh flesh thereof as such owner or occupier of land is entitled to sell under the provisions of sub-section (1).

(3) No person shall advertise in any newspaper or other matter which is printed within this Territory the sale of any game or the flesh of any game (whether fresh or dried) or any game biltong; Provided that nothing herein contained shall prohibit the owner or occupier of any land from advertising the sale of any such species of game as such owner or occupier of land is entitled to sell under the provisions of sub-section (1).

(4) Any person contravening any of the provisions of sub-sections (1), (2) and (3) of this section shall be guilty of an offence and in the case of a conviction for contravening the provisions of sub-sections (1) or (3) shall be liable to a fine not less than twenty-five pounds and not exceeding five hundred pounds or in default of payment to imprisonment for a period of not exceeding two years.

24. Notwithstanding anything to the contrary contained in this Ordinance the owner of land enclosed with a sufficient fence upon which there is normally to be found wild ostriches, wildbeest, zebras and warthogs or any one or more of such species of game, bird or animal shall be entitled to decide whether he wishes to preserve any or all of any of such species of game, bird or animal. It shall be lawful for such owner to kill any or all of any such species of game, bird or animal that he does not wish to preserve.

25. (1) Notwithstanding anything contained in the Venison Export Tax Proclamation, 1922 (Proclamation No. 22 of 1922), any person domiciled outside this Territory, who has taken out a big game licence in this Territory, shall be allowed on his departure from the Territory, to take away with him without payment of any export tax, biltong not exceeding twenty pounds in weight. On any biltong in excess of twenty pounds weight taken away by such person domiciled outside this Territory the ordinary export tax shall be paid.

(2) Any person resident in this Territory may export once in any year biltong not exceeding twenty pounds in weight without the payment of any export tax under the authority of a permit issued by the magistrate of the district within which such person resides or any other person duly authorised thereto by the Secretary. The issue of such permit shall be in the discretion of such magistrate or such duly authorised person.

19. Niemand mag sonder 'n permit van die Administrateur 'n olifantstand of gedeelte daarvan uit hierdie Gebied uitvoer nie. Elkeen wat die bepalings van hierdie artikel verontgaan, of wat 'n voorwaarde van 'n permit hierkragtens uitgereik nie naom nie, is skuldig aan 'n oortreding en by skuldigheidsvinding strafbaar met 'n boete van minstens vvf-en-twintig pond en hoogstens vyfshonderd pond, of by wanbetalung met gevangenisstraf van hoogstens twee jaar.

20. In Geregsdiensnaar of wildhewaarder kan te eniger tyd, van enigienand wat hy by die jag aantref, vereis dat hy 'n lisensie of permit uitgereik ingevolge hierdie Ordonnansie, toon, en hy kan die naam en adres van so iemand eis, en elkeen wat op las weter om sy lisensie of permit te toon om sy naam en adres te gee, is skuldig aan 'n oortreding.

21. (1) Geen geselskap persone wat in die Unie of enige ander land of gebied op die been gebring is met die doel om in die Gebied te jag, mag die Gebied met daardie doel binnekomen nie.

(2) Elkeen van so 'n geselskap wat die Gebied teenstrydig met die bepalings van sub-artikel (1) binnekom, is skuldig aan 'n oortreding.

(3) Aan niemand uit so 'n geselskap sou bepaal in sub-artikel (1), wat die Gebied binnekom teenstrydig met die bepalings van sub-artikel (1) word 'n lisensie tot die jag op wild ingevoeg die bepalings van hierdie Ordonnansie uitgereik nie.

22. (1) Behoudens die bepalings van artikel elf mag niemand enige wild jag gedurende die tydperk vanaf 'n halfuur sondergang op enige dag tot 'n halfuur voor sonop van die volgende dag nie.

(2) Elkeen wat die bepalings van sub-artikel (1) verontgaan, is skuldig aan 'n oortreding.

23. (1) Niemand mag wild of die vleis van die wild (hetys vars of gedroog), of wildbiltong verkoop nie: Met dien verstaande dat die eiernaar van bewoner van grond sodanige wildsoorte beskou word as 'n verbod teen enigienand om van die eiernaar van grond enige sodanige wildsoort of die vars vleis daarvan te koop, sou sodanige eiernaar van grond ingevolge die bepalings van sub-artikel (1) geregig is om te verkoop nie.

(2) Niemand mag opsetlik 'n dier of voël wat wild is, of die vleis van enige wild (hetys vars of gedroog), of enige wildbiltong koop nie: Met dien verstaande dat niks hierin vervat beskou word as 'n verbod teen enigienand om van die eiernaar van bewoner van grond enige sodanige wildsoort soos die vleis daarvan te koop, sou sodanige eiernaar van grond ingevolge die bepalings van sub-artikel (1) geregig is om te verkoop nie.

(3) Niemand mag in enige koerant of ander stuk binnekonding gedruk, die verkoop van enige wild of van die vleis van enige wild (hetys vars of gedroog), of van enige wildbiltong aangekondig nie: Met dien verstaande dat niks hierin vervat 'n verbod is teen die eiernaar van bewoner van grond om die verkoop van enige sodanige wildsoort soos die eiernaar van bewoner van grond ingevolge die bepalings van sub-artikel (1) hiervan geregig is om te verkoop, te aangekondig nie.

(4) Elkeen wat 'n bepaling van sub-artikels (1), (2) en (3) van hierdie artikel verontgaan, is skuldig aan 'n oortreding, en by skuldigheidsvinding ingevoeg die bepalings van sub-artikel (1) of (3) strafbaar met 'n boete van minstens vvf-en-twintig pond en hoogstens vyfshonderd pond, en by wanbetalung met gevangenisstraf van hoogstens twee jaar.

24. Nieteenstaande andersluijdende bepalings in hierdie Ordonnansie is die eiernaar van grond wat voldoende omlein is, en waarop daar gewoonlik wilde volstreke, kwadeleef, en vlakvare van enigen of meer van sodanige wild-, voël- of diersoorte aangetreft word, geregig om te besluit of hy enige of elkeen uit enige sodanige wild-, voël- of diersoort wil bewaar. Sodanige eiernaars kan enige of elkeen uit enige sodanige wild-, voël- of diersoort wat hy nie wil bewaar nie, vernietig.

25. (1) Nieteenstaande andersluijdende bepalings in die "Wildvlees Uitvoer Proklamasie, 1922" (Proklamasie 22 van 1922), word enigienand woonagtig buite hierdie Gebied, wat 'n grootwildlisensie in hierdie Gebied uitgemeen het, toegelaat om by sy vertrek uit die Gebied hoogstens twintig pondgewig van biltong sonder betaling van uitvoerbelasting saam met hom te neem. Op enige biltong bo twintig pond aan gewig wat deur sodanige persoon, woonagtig buite die Gebied, saamgemaak word, is die gewone uitvoerbelasting betaalbaar.

(2) Persoon wat binnekonding woonagtig is, kan eenkeer per jaar hoogstens twintig pondgewig van biltong sonder die betaling van uitvoerbelasting en kragtens 'n permit uitgereik deur die magistraat van die distrik waarin so iemand woon, of deur 'n ander wat behoorlik daartoe deur die Sekretaris gunagrig is, uitvoer. Die uitreiking van sodanige permit geskied na goedunke van sodanige magistraat of sodanige behoorlike goedagtige persoon.

26. Nothing in this Ordinance contained shall be deemed or taken to affect, alter or amend in any way the existing law relating to game reserves.

27. Notwithstanding anything in this Ordinance contained, it shall be lawful for the Administrator in special circumstances to issue to a distinguished visitor to this Territory a permit to hunt any game in open season on such conditions and subject to such limitations as may be laid down in such permit.

28. (1) Any person found in possession or proved within six months to have been in possession of the flesh of any game (whether fresh or dried) or game hiltong, hide, skin, horn, tusk or part of the carcass of game shall, unless he can satisfactorily account to the court for such possession, be guilty of an offence. The period of six months herein referred to shall be calculated from the date of the accused person's arrest or the date on which the summonses against him is issued, as the case may be.

(2) Any person charged with doing any act which is an offence under this Ordinance if done without a licence, permit or permission, shall be deemed to have done such act without such licence, permit or permission unless it is proved that he was in possession of such licence, permit or permission when he performed the act in question.

(3) Whenever in any proceedings against any person upon a charge alleging that he committed upon any particular piece of land an offence under this Ordinance it is proved that any act, constituting or forming an element of such offence, was committed in or near the locality wherein such piece of land is situated, such act shall be deemed to have been committed upon such piece of land unless it is proved—

- (a) that it was committed on another piece of land; and
- (b) that the person committing such act had the right to commit it on such piece of land.

(4) Whenever any game or any flesh (whether fresh or dried) or any hiltong, hide, skin, horn, tusk, head, or any part of the carcass of game is upon any vehicle or at any camping place, every person who is upon or in any way associated with such vehicle or who is at or in any way associated with such camping place shall be deemed to be in possession of such game, flesh (whether fresh or dried), hiltong, hide, skin, horn, tusk, head or part of the carcass of game for the purposes of sub-section (1).

(5) Whenever the hunting of one or other sex or of any particular class of any species of game is unlawful and the hunting of the other sex or of any other class of such game is lawful, any carcass of such game from which the distinguishing features of sex or of such particular class have been removed shall be deemed to be the carcass of game of the sex or of a class which it is unlawful to hunt.

(6) Whenever in any prosecution under this Ordinance it is alleged in any indictment or charge that an offence was committed in connection with or in respect of any species of game stated in such indictment or charge it shall be presumed that the offence was committed in respect of such species of game unless the contrary is proved.

(7) In any prosecution under this Ordinance any prescribed record book or document kept by an officer or authorised person in the course of his duty shall be *prima facie* proof of the facts recorded therein upon its production by the officer or person in whose custody it is.

29. (1) When any person has been convicted of an offence against this Ordinance the court may order—

- (a) that any game or hiltong or any skin, hide, horn, tusk or carcass of game found in his possession and relating to the offence of which he has been convicted, be forfeited to the Crown;
- (b) that any licence or permit granted under this Ordinance to the person convicted be cancelled;
- (c) that any firearm used in connection with the hunting of game contrary to any of the provisions of this Ordinance, be forfeited to the Crown.

(2) In the case of a second or subsequent conviction the Court may, in addition to any of the orders mentioned in subsection (1) hereof, order that the person convicted be disqualified from obtaining a licence or permit under this Ordinance during a period to be specified in the order but not exceeding five years.

26. Niks in hierdie Ordonnansie vervat word beskou of aangeneem die bestaande wet betreklike wildreserves eniginge waak, te verander of te wysig nie.

27. Nieteenstaande andersluidende hepalings in hierdie Ordonnansie, kan die Administrateur in lessondere omstandighede die voorraanstaande lessoek aan hierdie Gehied 'n permit uitreik om in die jagtyd enige wild te jag op sodanige voorwaarde en onderhevig aan die beperkings wat die permit ople.

28. (1) Elkeen wat in besit gevind word van, of van wie daar binne sei maande bewys word dat hy in besit was van die vleis van enige wild (hetsey vars of gedroogd) of wildhiltong, huid, vel, horing of tind van wild, is, tensy hy bevredegende rekenkap, aan die hof kan gee van sodanige heksigheid en skuldig aan 'n oortreding. Die hieringenoemde tydperk van ses maande word terken vanaf die datum van die beskuldigde se arrest vanaf die datum waarop die dagvaarding teen hom uitgereik is, na gelang van die geval.

(2) Elkeen wat aangekla word weens 'n daal wat kragtens hierdie Ordonnansie 'n oortreding is, indien dit sonder 'n lisensie, permit of verlof gedoen is, word beskou sodanige daal sonder 'n lisensie, permit of verlof te gedoen het, tensy daar bewys word dat hy in besit was van sodanige lisensie, permit of verlof toe hy die bewuste daal uitgevoer het.

(3) Wanneer daar by 'n proses teen 'n persoon op 'n aanklag dat hy op 'n bepaalde stuk grond 'n oortreding van hierdie Ordonnansie begin het, bewys word dat enige daal wat 'n grondbestanddeel van sodanige oortreding uitmaak of vorm in of nabij dié omgewing waarin sodanige stuk grond geleë is, gepleeg is, word sodanige daal gehou vir gepleeg op sodanige stuk grond, tensy daar bewys word—

- (a) dat dit op 'n ander stuk grond gepleeg is; en
- (b) dat die persoon wat sodanige daal gepleeg het, die reg gehad het om dit op sodanige stuk grond te pleeg.

(4) Wanneer ook al enige wild of vleis (hetsey vars of gedroogd) of enige hiltong, huid, vel, horing, tand, kop of ander deel van die karkas van wild op 'n voertuig of by 'n kameerpelkie aangeset word, word elkeen wat op sodanige voertuig is of enigsins daarinne in verband staan, of wat by sodanige kameerpelkie is of enigsins daarinne in verband staan, vir die doelendels dan sub-artikel (1) geag in besit te wees van sodanige wild, vleis (hetsey vars of gedroogd), ontong, huid, vel, horing, tand, kop of ander deeldeel van die karkas van wild.

(5) Wanneer ook al die jag op die een of die ander geslag, of op 'n besondere klas wildsoort onwettig is, en die jag op die teenoorgestelde geslag of op 'n ander klas sodanige wild wettig is, word elke karkas van sodanige wild waarvan die kenmerk van sy geslag of sodanige besondere klas verwyder is, geag die karkas van die geslag of van die klas wildsoort wat jag onwettig is, te wees.

(6) Wanneer ook al daar by 'n vervolging kragtens hierdie Ordonnansie in enige akte van beskuldiging of aanklag beweer word dat 'n oortreding begin is in verband met of ten opsigte van enige wildsoort genoem in sodanige akte van beskuldiging of aanklag, word aangeneem dat die oortreding ten opsigte van sodanige wildsoort gepleeg is, tensy die teenoorgestelde bewys word.

(7) By elke vervolging kragtens hierdie Ordonnansie is elke voorgeskrewe aanteekningsboek of stuk wat deur 'n amptenaar of gemachtigde persoon by die uitvoerung van sy pligte gehou word, *prima facie* bewys van die feite daarin aangegeteken, wanneer dit deur 'n amptenaar of persoon onder wie se toesig is, getoon word.

29. (1) Wanneer 'n persoon skuldig bevind is weens 'n oortreding van hierdie Ordonnansie kan die hof beveel—

- (a) dat enige wild of hiltong of enige vel, huid, horing, tand of karkas van wild wat in sy besit gevind is en wat betrekking het op die oortreding waarvan hy skuldig bevind is, aan die Kroon verbeer word;
- (b) dat enige lisensie of permit wat ingevalle hierdie Ordonnansie aan die veroordeelde persoon uitgereik is, gekanselleer word;
- (c) dat enige vuurwapens wat by die jag op wild teenstrydig met enige hepalings van hierdie Ordonnansie gebruik is, aan die Kroon verbeer word.

(2) By 'n tweede of daarvolgende skuldigbevinding kan die Hof, buiten enige van die bevels in sub-artikel (1) hiervan, beveel dat die veroordeelde vir 'n tydperk soos in die bevel vasgestel, maar hoogstens vyf jaar, onbevoeg verklaar word om 'n lisensie of permit ingevalle hierdie Ordonnansie te verkry.

(3) Any order under the provisions of sub-sections (1) or (2) of this section may be made in addition to any other penalty which may be imposed under the provisions of this Ordinance.

(4) Any person who in terms of sub-section (2) is declared by the Court to be disqualified from obtaining a licence or permit under this Ordinance and who without the written permission of the Administrator obtains or attempts to obtain during the period he is disqualified as aforesaid any such licence or permit, shall be guilty of an offence.

(5) Any game or biltong or any skin, hide, horn, tusk or carcass of any game, or any firearm or vehicle forfeited to the Crown thereby obtained shall be placed to the credit of the Territory Revenue Fund.

30. The Administrator may from time to time out of moneys appropriated for the purpose take such measures as he may deem necessary for—

- (i) the acquisition of motor vehicles or aircraft to be used as transport in connection with the duties of game wardens; and
- (ii) the construction of fences, dams and watering holes and the provision of any other means or schemes for the preservation and protection of game in any game reserve defined in the Second Schedule to the Prohibited Areas Proclamation, 1928 (Proclamation No. 26 of 1928).

31. (1) The Administrator may make regulations, not inconsistent with this Ordinance—

- (i) prescribing the procedure in connection with the meeting of the Board established under the provisions of section two of this Ordinance;
- (ii) prescribing the qualifications of the members of the Board;
- (iii) prescribing the period for which its members shall hold office;
- (iv) prescribing the rates of travelling and subsistence allowances to be paid to members of the Board;
- (v) prescribing the functions and duties (other than those defined in sub-section (2) of section four) of game wardens appointed in terms of sub-section (1) of that section;
- (vi) prescribing the rates of travelling and subsistence allowances to be paid to game wardens appointed in an honorary capacity in terms of sub-section (1) of section four;
- (vii) in respect of any matter which this Ordinance specially provides may be prescribed by regulation; and
- (viii) generally for the better carrying out of the intents, objects and purposes of this Ordinance.

(2) Any person contravening or failing to comply with any such regulation, shall, save where otherwise provided, be guilty of an offence and liable on conviction in respect of a first offence to a fine of not less than ten pounds and not exceeding fifty pounds, or in default of payment to imprisonment with or without hard labour for a period of not exceeding six months and in the case of a second or subsequent conviction, to a fine of not less than twenty pounds and not exceeding one hundred pounds or in default of payment to imprisonment with or without hard labour, for a period not exceeding twelve months.

32. Notwithstanding anything to the contrary contained in any law relating to magistrates' courts, a magistrate's court shall have jurisdiction to impose any punishment, penalty or forfeiture provided for by this Ordinance.

33. Any person convicted of any offence against this Ordinance for which no penalty is specially provided shall be liable on conviction to the penalties prescribed in sub-section (2) of section thirty-one.

34. The laws mentioned in the Fourth Schedule to this ordinance are hereby repealed to the extent set forth in the third column of that schedule: Provided that any regulations made under the provisions of any such law so repealed and in force at the date of the coming into operation of this Ordinance, shall remain in force until modified or repealed.

35. This Ordinance shall be called the Game Preservation Ordinance, 1951.

(3) Elke bevel kragtens die bepalings van sub-artikels (1) of (2) van hierdie artikel kan verstrekk word bo en behalwe enige ander straf wat kragtens die bepalings van hierdie Ordonnansie opgelê word.

(4) 'n Person wat ingevolge sub-artikel (2) van hierdie artikel deur die Hof onbevoeg verklaar word om 'n lisensie of permit ingevolge hierdie Ordonnansie te verkry, en wat sonder die skriftelike goedkeuring van die Administrator in die tydperk van sy onbevoegdheid soos vermeld enige sodanige lisensie of permit verkry of probeer verkry, is skuldig aan 'n oortreding.

(5) Enige wild of hiltong of enige vel, huid, horing, tand of karkas van enige wild, of enige vuurwapen of voertuig wat aan die Kroon verheue word, kan deur die Administrator van die hand gesit word, en kan opbreng daaruit word in die Gebiedsinkomstefonds gestort.

30. Die Administrator kan van tyd tot tyd met geldelike wat daartoe bewillig is, sodanige maatreels tref, soos hy nodig vind, vir—

- (i) die aankoop van motorvoertuie of vliegtuie vir gebruik in verband met die pligte van wildbewaarders; en
- (ii) die oprigting van omheinings, damme en drinkgate, en die voorseeing van ander middelle of skemas ter bewaring en beskerming van wild in enige wildreservé soos omskryw in die tweede bylae van die Verbode Gebiede Proklamasie 1928 (Proklamasie 26 van 1928).

31. (1) Die Administrator kan van tyd tot tyd regulasies maak, wat nie teenstrydig is met hierdie Ordonnansie nie—

- (i) wat die procedure voorskryf in verband met die byekoms van die Raad ingestel kragtens die bepalings van artikel twee van hierdie Ordonnansie;
- (ii) wat die bevoegdheid van die lede van die Rand voor skryf;
- (iii) wat die ampstermy van sy lede vasstel;
- (iv) wat die tarief vir reis- en onderhoudstoelaes betaalbaar aan die lede van die Raad voorskryf;
- (v) wat die werkzaamhede en pligte (behalwe dié omskryf in sub-artikel (2) van artikel vier) van wildbewaarders, aangestel ingevolge sub-artikel (1) van daardie artikel voorskryf;
- (vi) wat die tarief vir reis- en onderhoudstoelaes betaalbaar aan wildbewaarders aangestel in ere-hoedanigheid ingevolge sub-artikel (1) van artikel vier, voorskryf;
- (vii) ten opsigte van alle sake waaroor kragtens besondere voorsiening in hierdie Ordonnansie, regulasies voorgeskryf kan word; en
- (viii) algemeen ter verhitterde uitvoering van die oognerke, doelstellings en vooremens van hierdie Ordonnansie.

(2) Elkeen wat 'n sodanige regulasie verontgaan of versuin om 'n sodanige regulasie na te kom, is, behalwe waar anders bepaal, skuldig aan 'n oortreding en hy skuldig bevind strafbaar, in die geval van 'n eerste oortreding, niet 'n boete van minstens tien pond en hoogste vyftig pond, of by wanbetaling met gevangenisstraf, niet of sonder hardepad van hoogste ses maande, en in die geval van 'n tweede of daaropvolgende oortreding niet 'n boete van minstens twintig pond en hoogstens een honderd pond, of by wanbetaling, met gevangenisstraf, niet of sonder hardepad, van hoogstens twaalf maande.

32. Nieteontaande andersluiende bepalings in enige wet betreffende magistraatshawe, het 'n magistraatshof die regsvoegheid om elke straf, boete of beverburdverklaring, soos bepaal by hierdie Ordonnansie, op te lê.

33. Elkeen wat skuldig bevind word weens 'n oortreding van hierdie Ordonnansie, waaroor daar geen straf uitdruklik voorgeskryf is nie, is by skuldig bevinding onderhewig aan die straflike voorgeskryf in sub-artikel (2) van artikel een-en-derdig.

34. Die wette genoem in die vierde bylae van hierdie Ordonnansie word hierby herroep in die mate soos uittegensit in die derde kolom van daardie bylae. Met dien verstaande dat alle regulasies wat kragtens die bepalings van enige sodanige wet, aldus herroep, en wat van krag is op die datum van die inwerkingtreding van hierdie Ordonnansie, van krag bly totdat hulle gewysig of herroep word.

35. Hierdie Ordonnansie het die Ordonnansie op Wildbeskerming 1951.

FIRST SCHEDULE.

BIG GAME.

Species.

- Buffalo (*Syncerus caffer*).
 Gemsbuck (adult) (*Oryx gazella*).
 Hartbeest (*Alcelaphus species*).
 Kudu (*Strepsiceros strepsiceros*).
 Ostrich (*Struthio australis*).
 Sassaby (*Damaliscus lunatus*).

SECOND SCHEDULE.

PROTECTED GAME.

(PART I ANIMALS).

Species.

- Aard wolf (*Proteles cristatus*).
 Antbear (*Orycteropus afer*).
 Bushbuck (*Traefelaphus scriptus*).
 Damara Dikdik (*Rhynchotragus damarensis*).
 Delalandes Fox (*Otoyon megalotis*).
 Eland (*Tauroragus oryx*).
 Elephant (*Loxodonta africana*).
 Giraffe (*Giraffa camelopardalis*).
 Hedgehog (*Aethicenus frontalis*).
 Hippopotamus (*Hippopotamus amphibius*).
 Honeybadger (*Mellivora capensis*).
 Impala (*Alpyceros melampus*).
 Klipspringer (*Oreotragus oreotragus*).
 Lechwe (*Onotragus lechei*).
 Night apes (*Galago senegalensis* and *Otolemur crassicaudatus*).
 Orihi (*Ourebia rutila*).
 Otter (*Lutra* and *Aonyx*).
 Roan antelope (*Egocerus equinus*).
 Reedbuck (*Redunca arundinum*).
 Rhinoceros — Black (*Dicerorhinus bicornis*).
 Rhinoceros — White (*Ceratotherium simum*).
 Sable antelope (*Egocerus niger*).
 Scaly anteater (*Smutsia temminckii*).
 Silver-jackal (*Vulpes chamaa*).
 Situtunga (*Linnotragus solousi*).
 Steenbuck (*Raphicerus campestris*).
 Zebra (*Hartmanni's Mountain*) (*Hippotigris hartmannae*).

(PART II. BIRDS).

- | | |
|-------------|------------------|
| Bee-eaters. | Hornbills. |
| Bustards. | Ibis. |
| Cranes. | Pelicans. |
| Cormorants. | Penguins. |
| Eagles. | Rollers (Jays). |
| Egrets. | Secretary Birds. |
| Flamingoes. | Spoonbill. |
| Hammerhead. | Sunbirds. |
| Hawks. | Vultures. |
| Herrons. | |

THIRD SCHEDULE.

SMALL GAME.

Species.

- All varieties of wild duck and geese.
 All varieties of the francolin species (otherwise known as pheasants and partridges).
 All varieties of the sand grouse (otherwise known as Namaqualand partridges).
 Guinea fowl.
 All kinds of quails.
 Duiker (*Solvicapra grimmiai*).
 Springbuck (*Antidorcas marsupialis*).
 Warthog (*Phacochoerus aethiopicus*).
 Wildpig.

EERSTE BYLAE.

GROOT WILD.

Soorte.

- Buffels (*Syncerus caffer*).
 Gemsbokke (*volwasse*) (*Oryx gazella*).
 Hartbeeste (*Alcelaphus species*).
 Koedoes (*Strepsiceros strepsiceros*).
 Volstruise (*Struthio australis*).
 Tsessebes of Basterhartbeeste (*Damaliscus lunatus*).

TWEEDDE BYLAE.

BESKERMDE WILD.

(DEEL I DIERE).

Soorte.

- Aardwolwe (*Proteles cristatus*).
 Erdvarke (*Orycteropus afer*).
 Bosjhokke (*Traefelaphus scriptus*).
 Blouhokkies (*Rhynchotragus damarensis*).
 Bakkoorjakkalse (*Otoyon megalotis*).
 Elande (*Tauroragus oryx*).
 Olifante (*Loxodonta africana*).
 Kuaneelperde (*Giraffa camelopardalis*).
 Krinyparkies (*Aethicenus frontalis*).
 Sekooie (*Hippopotamus amphibius*).
 Ratels (*Mellivora capensis*).
 Rooibokke (*Alpyceros inclampus*).
 Klipbokke (*Oreotragus oreotragus*).
 Gedwaterbokke (*Onotragus lechei*).
 Nagapies (*Galago senegalensis* en *Otolemur crassicaudatus*).
 Oorhietjies (*Ourebia rutila*).
 Otters (*Lutra* en *Aonyx*).
 Baster-elande of Bastergenboskhe (*Egocerus equinus*).
 Rietboskhe (*Redunca arundinum*).
 Renosters — Swart (*Dicerorhinus bicornis*).
 Renosters — Wit (*Ceratotherium simum*).
 Swartwitpense (*Egocerus niger*).
 Internagogs (*Smutsia temminckii*).
 Silwerjakkalse (*Vulpes chamaa*).
 Waterkoedoe (*Linnotragus solousi*).
 Steenboskhe (*Raphicerus campestris*).
 Bergsbras (*Hartmanni's Mountain*) (*Hippotigris hartmannae*).

(DEEL II. VOELS).

- | | |
|-----------------------------|----------------------|
| Bergswaels. | Boskraie, Bromvoëls. |
| Poue en Korhane. | Ibis. |
| Kraanvoëls. | Pelikane. |
| Duikers. | Pikkewyne. |
| Arende. | Troupandje. |
| Reiers. | Sekretarisvoëls. |
| Flaminkje. | Lepelaars. |
| Hamerkoppe of Paddavangers. | Suikerbekkies. |
| Valke. | Aasvoëls. |
| Reiers. | |

DERDE BYLAE.

KLEINWILD.

Soorte.

- Elke soort wilde-end en -gans.
 Elke soort van frankolines (ook bekend as fisante en patrysé).
 Elke soort sandhoender (ook bekend as namaqwapatrysé).
 Tarentale.
 Elke soort kwartel.
 Dinkers (*Solvicapra grimmiai*).
 Springboskhe (*Antidorcas marsupialis*).
 Vlakvarke (*Phacochoerus aethiopicus*).
 Wildevarke.

FOURTH SCHEDULE.

Number and Date of Law.	Title or Subject of Law.	Extent of Repeal.
Ordinance No. 5 of 1927	Game Preservation Ordinance, 1927	The whole.
Ordinance No. 6 of 1928	Game Preservation Ordinance Amendment Ordinance, 1928	The whole.
Ordinance No. 2 of 1930	Game Preservation Ordinance Further Amendment Ordinance, 1930	The whole.
Ordinance No. 4 of 1934	Game Preservation Ordinance Amendment Ordinance, 1934	The whole.
Ordinance No. 19 of 1937	Fauna and Flora Protection Ordinance, 1937	Sections two, three, four, six, seven and eight.
Ordinance No. 13 of 1941	Game Preservation Ordinance Amendment Ordinance, 1941	Sections one, two and three.

No. 12 of 1951.

ORDINANCE

To amend the law relating to Transfer Duty.

(Assented to 8th June, 1951).

(English text signed by the Administrator).

BE IT ORDAINED by the Legislative Assembly for 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 the context otherwise indicates—

- (i) "Commissioner" means the Commissioner for Inland Revenue;
- (ii) "date of acquisition" means, in the case of the acquisition of property by way of a transaction, the date on which the transaction was entered into, irrespective of whether the transaction was conditional or not or was entered into on behalf of a company already registered or still to be registered and, in the case of the acquisition of property otherwise than by way of a transaction, the date upon which the person who so acquired the property became entitled thereto: Provided that except in the case of property sold under the provisions of the land settlement laws of the Territory where property has been acquired by the exercise of an option to purchase or a right of pre-emption, the date of acquisition shall be the date upon which the option or right of pre-emption was exercised: Provided further that in the case of property sold to purchasers under the provisions of the land settlement laws of the Territory the date of acquisition shall be deemed to be the date upon which a Crown Grant is issued to such purchaser or to any cessionary of such purchaser's rights: Provided that where such purchaser or cessionary cedes his rights over such property before a Crown Grant is issued to him, the date of acquisition shall be the date of agreement to cede;
- (iii) "declared value" in relation to property means the value of the property as declared in the declaration completed in terms of section fourteen by the person who has acquired the property;
- (iv) "fair value" in relation to property means the fair market value of that property as at the date of acquisition thereof: Provided that where property has been acquired by the exercise of an option to purchase or a right or pre-emption, the fair value in relation to that property shall be the fair market value thereof as at the date upon which the option or right of pre-emption was acquired by the person who exercised the option or right of pre-emption;
- (v) "property" means land and fixtures thereon and includes any real right in land but excludes any right to minerals, any right to mine for minerals and any right under a mortgage bond or a lease of property;

VIERDE BYLAE.

Nommer en datum van Wet.	Titel of Onderwerp van Wet.	Omvang van Hierroeping.
Ordonnansie 5 van 1927	Wildbeskernings-Ordonnansie 1927	Die hele.
Ordonnansie 6 van 1928	Wildbeskernings-Ordonnansie Wysigings-ordinansie 1928	Die hele.
Ordonnansie 2 van 1930	Wildbeskernings-Ordonnansie Verder Wysigings-ordinansie 1930	Die hele.
Ordonnansie 4 van 1934	Wildbeskernings-Ordonnansie Wysigings-ordinansie 1934	Die hele.
Ordonnansie 19 van 1937	Ordonnansie op Beskerming van Diere en Blomme 1937	Artikels twee, drie, vier, ses, sewe en agt.
Ordonnansie 13 van 1941	Wildbeskernings-Ordonnansie Wysigings-ordinansie 1941	Artikels een, twee, en drie.

No. 12 van 1951.

ORDONNANSIE

Om die wet op hereregte te wysig.

(Goedgekeur 8 Junie 1951).

(Engelse teks deur die Administrateur geteken).

Die Wetgewende Vergadering van die Gebied Suidwes-Afrika, met die toestemming van die Goewerneur-generaal, vir sover sodanige toestemming nodig is, nadat dit vooraf ontvang en aan die Wetgewende Vergadering deur boodskap van die Administrateur ingevolge die bepaling van artikel ses-en-twintig van die "Zuidwest-Afrika Konstitutie Wet 1925" van die Parlement van die Unie van Suid-Afrika, meegedeel is, VERORDEN:—

1. In hierdie Ordonnansie, tensy uit die samehang anders blyk, beteken —
 - (i) „Kommissaris” die Kommissaris van Binnelandse Inkomsste;
 - (ii) „datum van verkrywing”, in die geval van die verkrywing van eiendom by wyse van 'n transaksie, die datum waarop die transaksie aangaan is, hetby die transaksie voorwaardelik was of nie, of aangaan is namens 'n maatskappy wat reeds geregistreer is of nog geregistreer dien te word en, in die geval van die verkrywing van eiendom anders as by wyse van 'n transaksie, die datum waarop die persoon wat die eiendom aldus verkry het, daarop geregtig geword het: Met dien verstande dat, waar eiendom behalwe eiendom wat ingevolge die bepaling van die landhederstellingswette van die Gebied verkoop word, verky is ten gevolge van die uitoefening van 'n opsig om te koop of 'n voorkoopsreg, die datum van verkrywing die datum is waarop die opsig van voorkoopsreg uitgeoefen is: Met dien verstande voorts dat in die geval van eiendom wat ingevolge die bepaling van die landhederstellingswette van die Gebied aan kopers verkoop word, die datum van verkrywing gehou word vir die datum waarop die kroontoekenning aan sodanige koper of aan 'n sessioneeris tot sodanige koper se regte uitgerek is: Met dien verstande dat waar sodanige koper of sessioneeris sy regte op sodanige eiendom sedert voordat 'n kroontoekenning aan hom uitgerek word, die datum van verkrywing die datum van die ooreenkoms tot sessie is;
 - (iii) „verklaarde waarde” met betrekking tot eiendom, die waarde van die eiendom soos verklaar in die verklaring wat ingevolge artikel veertig voltooi is deur die persoon wat die eiendom verkry het;
 - (iv) „billike waarde” met betrekking tot eiendom, die billike markwaarde van daardie eiendom op die datum van verkrywing daarvan: Met dien verstande dat waar eiendom verkry is ten gevolge van die uitoefening van 'n opsig om te koop of 'n voorkoopsreg, die billike waarde met betrekking tot daardie eiendom die billike markwaarde daarvan is op die datum waarop die opsig van voorkoopsreg verkry is deur die persoon wat die opsig van voorkoopsreg uitgeoefen het;
 - (v) „eiendom” grond en eniglets wat daarvan gebeg is, en ook enige saaklike reg op grond, maar sluit uit enige reg op mineraal, enige reg oor mineraal te ontgin en enige reg uit hoofde van 'n verband van die huur van eiendom;

- (vi) "registration officer" means the person who is in charge of a deeds registry;
- (vii) "transaction" means an agreement whereby one party thereto agrees to sell, grant, donate, cede, exchange, lease or otherwise dispose of property to another, or any act whereby any person renounces any interest in or restriction in his favour upon the use or disposal of property.

2. Subject to the provisions of section nine, there shall be levied for the benefit of the Territory Revenue Fund a transfer duty (hereinafter referred to as the duty) of three pounds per centum on the value of any property (which value shall be determined in accordance with the provisions of sections five, six, seven and eight) acquired by any person on or after the date of commencement of this Ordinance, by way of a transaction or in any other manner, or on the amount by which the value of any property is enhanced by the renunciation, on or after the said date of an interest in or restriction upon the use or disposal of that property.

3. (1) The duty shall within six months of the date of acquisition be payable by the person who has acquired the property or in whose favour or for whose benefit any interest in or restriction upon the use or disposal of property has been renounced.

(2) Pending the completion of the declarations referred to in section fourteen, or the determination of the amount of duty payable under this Ordinance, a deposit on account of the duty payable may be made to the receiver of revenue to whom the duty is payable in terms of sub-section (3).

(3) The duty and any penalty payable under section four shall be paid to the receiver of revenue for the district in which the property in question is situated or, if the property is situated in more than one district, to the receiver of revenue for any one of those districts.

4. (1) If any duty remains unpaid at the expiration of the period referred to in section three, there shall, subject to the provisions of sub-section (3), in addition to the unpaid duty, be payable a penalty at the rate of twelve per centum per annum on the amount of the unpaid duty calculated from the date of the expiration of the said period to the date of payment.

(2) For the purpose of sub-section (1) a deposit on account of duty shall be deemed to be a payment of duty.

(3) Whenever a receiver of revenue to whom duty is payable is satisfied that the delay in the determination of the value on which the duty is payable cannot be ascribed to the person liable to pay the duty, he may allow a reasonable extension of time within which the duty may be paid without penalty if, within six months of the date of acquisition of the property —

(a) a deposit on account of the duty payable is made to the said receiver of an amount equal to the duty calculated on the amount of the consideration paid or payable or on the declared value, as the case may be, and

(b) application is made in writing to the said receiver for such extension of time.

5. (1) The value on which duty shall be payable shall, subject to the provisions of this section —

(a) where consideration is payable by the person who has acquired the property, be the amount of that consideration; and

(b) where no consideration is payable, be the declared value of the property.

(2) If a transaction whereby property has been acquired, is, before registration of the acquisition in a deeds registry, cancelled, or dissolved by the operation of a resolutive condition, duty shall be payable only on that part of the consideration which has been or is paid to and retained by the seller and on any consideration payable by either party to the transaction for or in respect of the cancellation thereof.

(b) Upon the subsequent disposal of property referred to in paragraph (n), the person so disposing of it shall, in the declaration to be made by him in terms of section fourteen, set forth the circumstances of such previous transaction and of the cancellation thereof and shall furnish particulars relating to the payment of duty in connection therewith, and any duty payable in connection with such previous transaction but still unpaid shall be paid by the person so disposing of the property, who may thereupon recover the duty so paid from the person liable for the payment thereof in terms of section three.

- (vi) „registrasiecampenaar” iemand wat aan die hoof is van 'n registrasiekantoor;
- (vii) „transaksie” 'n ooreenkoms waarby een party daarby ooreenkomen om eiendom aan 'n ander te verkoop, toe te ken, te skenk, te sedeer, te verminder, te verhuur of op 'n ander wyse af te staan, of enige handeling waarby iemand afstand doen van enige belang in of heperking in sy guns op die gebruik van beskikking oor eiendom;

2. Behoudens die bepalings van artikel nege, word daar ten bate van die Inkomstefonds van die Gebedien heretegte van drie pond per centum op die waarde van enige eiendom gehef (welke waarde bepaal word ooreenkonsig die bepalings van artikels vijf, ses, sewe en agt) wat op of na die datum van die inwerkting van hierdie Ordonnansie deur enige persoon by wyse van 'n transaksie of op enige ander wyse verkry word, of op die bedrag waarmee die waarde van enige eiendom verhoog word ten gevolge van die afstand, op of na bedoelde datum, van 'n belang in of heperking op die gebruik van beskikking oor daardie eiendom.

3. (1) Heretegte is binne ses maande vanaf die datum van verkyring betaalbaar deur die persoon wat die eiendom verkry het of in wie se guns of ten voordele van wie van 'n belang in of beperking op die gebruik van beskikking oor eiendom, afstand gedoen is.

(2) Onderwyl die voltoeling van die in artikel veertien bedoelde verklarings, of die vaststelling van die kragtens hierdie Ordonnansie aan heretegte betaalbare bedrag, hangende is, kan 'n deposito teen die betaalbare heretegte inbetaal word by die ontvanger van inkomste aan wie die heretegte volgens sub-artikel (3) betaalbaar is.

(3) Heretegte en enige kragtens artikel vier betaalbare boete word betaal aan die ontvanger van inkomste van die distrik waarin die betrokke eiendom geleë is, of indien die eiendom in meer as een uitstryk geleë is, aan die ontvanger van inkomste van enige van daardie distrikte.

4. (1) Indien heretegte onbetaalbaar bly na verloop van die in artikel drie bedoelde tydperk, is daar, behoudens die bepalings van sub-artikel (3), benewens die onbetaalbare heretegte, 'n boete betaalbaar teen die skaal van twaalf per centum per jaar op die bedrag van die onbetaalde heretegte, bereken vanaf die datum van verstrekking van bedoelde tydperk tot die datum van betaling.

(2) By die toepassing van sub-artikel (1) word 'n deposito teen heretegte geeg 'n betaling van heretegte te wese.

(3) Wanneer 'n ontvanger van inkomste aan wie heretegte betaalbaar is, oortuig is dat die vertraging by die vaststelling van die waarde wanroep die heretegte betaalbaar is, nie toe te skryf is aan die persoon wat die heretegte moet betaal nie, kan hy 'n redelike verlenging van tyd toestaan waarbinne die heretegte sonder boete betaal kan word, mits, binne ses maande vanaf die datum van verkyring van die eiendom —

(a) 'n deposito teen die betaalbare heretegte van 'n bedrag wat gelijk staan aan die heretegte bereken op die betaalde of betaalbare bedrag van die vergoeding of op die verlaarde waarde, na gelang van die geval, by genoemde ontvanger inbetaal word; en

(b) skrifstelsel aansoek om sodanige verlenging van tyd by bedoelde ontvanger gedoen word.

5. (1) Behoudens die bepalings van hierdie artikel is die waarde waarop heretegte betaalbaar is —

(a) waar vergoeding betaalbaar is deur die persoon wat die eiendom verkry het, die bedrag van daardie vergoeding; en

(b) waar geen vergoeding betaalbaar is nie, die verlaarde waarde van die eiendom.

(2) (a) Indien 'n transaksie waarby eiendom verkry is, voor registrasie van die verkyring in 'n registrasiekantoor, gekanselleer of onbetaal word ten gevolge van 'n onbindende voorwaarde, dan is heretegte betaalbaar op slegs daardie gedeelte van die vergoeding wat aan die verkoper betaal is of word en deur hom behou word en op enige vergoeding wat deur enige van die partieë by die transaksie vir of ten opsigte van die kansellering daarvan betaalbaar is.

(b) By die daaropvolgende vervreemding van in paragraaf (a) bedoelde eiendom moet die persoon wat dit aldus vervreem, in die verklaring wat hy volgens artikel veertien moet afre, die omstandighede van so 'n vorige transaksie en van die kansellering daarvan uiteenstel en besonderhede verstrek met betrekking tot die betaling van heretegte in verband daarmee, en enige heretegte betaalbaar in verband met so 'n vorige transaksie dog nog onbetaal word betaal deur die persoon wat die eiendom aldus vervreem, wat daarop die aldus betaalde heretegte kan verhaal op die persoon wat ingevolge artikel drie aanspreeklik is vir die betaling daarvan.

- (3) Where a transaction provides for the payment of the whole or any part of the consideration by way of rent, royalty, share of profits or any other periodical payment, or otherwise than in cash, the value of such consideration shall be determined in accordance with the provisions of section eight.
- (4) In the case of a transaction whereby one property is exchanged for another, and —
- no additional consideration is payable by either party to the transaction, the value on which duty shall be payable in respect of the acquisition of each property shall, subject to the provisions of sub-sections (5) and (6) be the declared value of each property: Provided that if the properties exchanged are not of equal value, duty shall, subject to the said provisions, be paid in respect of the acquisition of each property on the declared value of the property which has the greater value;
 - additional consideration is payable by either party to the transaction, the value on which duty shall be payable, shall, subject to the provisions of sub-sections (5) and (6), be —
 - in respect of the acquisition of the property for which the additional consideration is payable, the declaration value of that property, additional consideration payable, whichever is the greater; and
 - in respect of the acquisition of the other property, the declared value thereof, or the declared value of the property given in exchange for that property less the additional consideration payable, whichever is the greater.
- (5) If the Commissioner is of opinion that the consideration payable or the declared value is less than the fair value of the property in question he may determine the fair value of that property, and thereupon the duty payable in respect of the acquisition of that property shall be calculated in accordance with the fair value as so determined or the consideration payable or the declared value whichever is the greatest.
- (6) In determining the fair value in terms of sub-section (5) the Commissioner shall have regard, according to the circumstances of the case, *inter alia* to —
- the nature of the real right in land and the period for which it has been acquired or, where it has been acquired for an indefinite period or for the natural life of any person, the period for which it is likely to be enjoyed;
 - the municipal or divisional council valuation of the property concerned;
 - any sworn valuation of the property concerned furnished by or on behalf of the person liable to pay the duty;
 - any valuation made by any competent and disinterested person appointed by the Commissioner.
- (7) If the fair value of property as determined by the Commissioner —
- exceeds the amount of the consideration payable in respect of that property, or the declared value, as the case may be, by not less than one-third of the consideration payable or the declared value, as the case may be, the costs of any valuation made by a person referred to in paragraph (d) of sub-section (6) shall be paid by the person liable for the payment of the duty;
 - does not exceed the said consideration or declared value as the case may be, to the extent set out in paragraph (a), the costs of the valuation shall be borne by the State.
- (8) The provisions of sub-sections (5) and (6) shall not apply in respect of the acquisition of property sold by public auction, unless the Commissioner is
- (3) Waar 'n transaksie voorsiening maak vir die betaling van die geheel of enige gedeelte van die vergoeding by wyse van 'n huurgeld, tantleme, 'n deel in winste of enige ander periodiese betaling, of op 'n ander wyse as in kontant, word die waarde van sodanige vergoeding volgens die bepaling van artikel agt bepaal.
- (4) In die geval van 'n transaksie waarby een eiendom vir 'n ander verruil word en —
- geen addisionele vergoeding deur enigeen van die partie by die transaksie betaalbaar is nie, is die waarde waarop hereregte ten opsigte van die verkryging van elkeen van daardie eiendomme betaalbaar is, behoudens die bepaling van sub-artikels (5) en (6), die verklaarde waarde van elke eiendom: Met dien verstande dat indien die verruilde eiendomme nie van die gelyke waarde is nie, hereregte behoudens genoemde bepaling betaalbaar word ten opsigte van die verkryging van elkeen van die eiendomme op die verklaarde waarde van die eiendom wat die grootste waarde het;
 - addisionele vergoeding deur enigeen van die partie by die transaksie betaalbaar is, is die waarde waarop hereregte, behoudens die bepaling van sub-artikels (5) en (6) betaalbaar is —
 - ten opsigte van die verkryging van die vergoeding betaalbaar is, die verklaarde waarde van daardie eiendom, of die verklaarde waarde van die eiendom wat vir daardie eiendom in ruil gegee is plus die addisionele betaalbare vergoeding, na gelang van watter bedrag die grootste is; en
 - ten opsigte van die verkryging van die ander eiendom, die verklaarde waarde daarvan, of die verklaarde waarde van die eiendom wat vir daardie eiendom in ruil gegee is min die addisionele betaalbare vergoeding, na gelang van watter bedrag die grootste is.
- (5) Indien die Kommissaris van oordeel is dat die betaalbare vergoeding van die verklaarde waarde minder as die billike waarde van die betrokke eiendom is, kan hy die billike waarde van daardie eiendom bepaal, en daarop word die betaalbare hereregte ten opsigte van die verkryging van daardie eiendom ooreenkomsdig die aldus bepaalde billike waarde van die betaalbare vergoeding van die verklaarde waarde, na gelang van watter bedrag die grootste is, bereken.
- (6) By die bepaling van die billike waarde ingevolge sub-artikel (5), moet die Kommissaris rekening hou, na gelang van die omstandighede van die geval, met, onder meer —
- die aard van die saaklike reg op grond en die tydperk waarvoor dit verky is, of waar dit vir 'n onbepaalde tydperk; of vir die natuurlike lewe van iemand verky is, die tydperk waarvoor dit waarskynlik geniet sal word;
 - die munisipale of afdelingsraadswaardering van die betrokke eiendom;
 - enige beeldende waardering van die betrokke eiendom wat deur of namens die persoon wat aansprklik is vir betaling van die hereregte, versafk word;
 - enige waardering gemaak deur 'n bevoegde en onpartydig persoon, deur die Kommissaris aangestel.
- (7) Indien die billike waarde van eiendom soos deur die Kommissaris bepaal —
- die bedrag van die vergoeding betaalbaar ten opsigte van daardie eiendom, of die verklaarde waarde, na gelang van die geval, met minstens een-deerde van die betaalbare vergoeding of die verklaarde waarde, na gelang van die geval, oorskry, word die koste van 'n waardering deur 'n in paraagraaf (d) van sub-artikel (6) bedoelde persoon gemaak, betaalbaar deur die persoon wat vir die betaling van die hereregte aansprklik is;
 - nie die bedrag van bedoelde vergoeding of verklaarde waarde, na gelang van die geval, in die in paraagraaf (a) bedoelde mate oorskry nie, word die koste van die waardering deur die Staat gedra.
- (8) Die bepaling van sub-artikels (5) en (6) is nie van toepassing nie ten opsigte van die verkryging van eiendom wat by publieke veiling verkoop is, tensy die Kommissaris oortuig is dat die verkoping nie

satisfied that the sale was not a *bona fide* sale by public auction, or that there was collusion between the seller and the purchaser or their agents.

6. (1) There shall for the purpose of the payment of duty be added to the consideration payable in respect of the acquisition of any property —

- (a) any commission or fees paid or payable by the person who acquired the property in excess of five per centum of the amount of the consideration payable in respect of the property;
- (b) if the property has been acquired by the exercise of an option to purchase or a right of pre-emption, any consideration paid or payable by the person who has acquired the property to any person in respect of the said option or right of pre-emption;
- (c) any consideration which the person who has acquired property has paid or agreed to pay to any person whatsoever in respect of or in connection with the acquisition of the property, over and above the consideration payable to the person from whom the property was acquired, other than any rent payable under a lease or sub-lease by the lessor thereof.

(2) Where the whole or any part of any commission, fees or consideration referred to in sub-section (1) is payable by way of rent, royalty, share of profits or any other periodical payment, or otherwise than in cash, the value thereof shall, for the purpose of the payment of duty, be determined *mutatis mutandis* in accordance with the provisions of section eight:

Provided that the value of any such consideration referred to in paragraph (b) of sub-section (1) shall be so determined as at the date upon which the option or right of pre-emption was acquired by the person who exercised the option or right of pre-emption.

7. There shall for the purpose of the payment of duty be excluded from the consideration payable in respect of the acquisition of any property —

- (a) transfer duty or any other duty or tax payable in respect of the acquisition of the property; and
- (b) the costs or fees payable in connection with the registration of the acquisition of the property.

8. Where the whole or any part of the consideration in respect of the acquisition of any property is payable by way of rent, royalty, share of profits or any other periodical payment, or otherwise than in cash, the value of the consideration so payable shall, for the purpose of the payment of the duty, be —

- (a) where the consideration is in the form of rent, royalty, share of profits, or any other periodical payment —
 - (i) if the actual amounts of the periodical payments are fixed, the aggregate of the said amounts payable over the period (including renewal periods) for which the property has been acquired by the person liable to pay the duty;
 - (ii) if the actual amounts of the periodical payments are not fixed or if the property has been acquired for an indefinite or unlimited period or for the natural life of any person, a value which the Commissioner considers fair in the circumstances;
- (b) where the consideration is in the form of goods, services, rights or privileges, the current market value of such goods, services, rights or privileges at the date of the transaction or, where the market value of such goods, services, rights or privileges as at the date of the transaction is not ascertainable, a value which the Commissioner considers fair in the circumstances;
- (c) where the consideration is in the form of shares in or other securities of a company, whether already registered or still to be registered, or is in the form of rights to acquire such shares or securities, the value of such shares or securities or rights thereto, which value shall —
 - (i) in the case of shares or securities which are quoted on any recognised stock exchange on the date of the transaction, be their middle market price on that date; or
 - (ii) in the case of other shares or securities or rights thereto, be a value which the Commissioner considers fair in the circumstances.

'n *bona fide* verkoop by publieke veiling was nie, of dat daar onderhande samewerking tussen die verkoper en die koper of hulle agentes was.

6. (1) Daar word vir die doelindes van die betaling van hereregte, by die vergoeding wat ten opsigte van die verkryging van eiendom betaalbaar is, die volgende bygevoeg —

- (a) enige kommissie of geldie ho vyf per centum van die bedrag van die vergoeding wat ten opsigte van die eiendom betaalbaar is en wat deur die persoon wat die eiendom verkry het, betaal of betaalbaar is;
- (b) indien eiendom verkry is ten gevolge van die uitdefensie van 'n opsig om te koop of 'n voorkoopsreg, enige vergoeding wat aan enigemand ten opsigte van bedoelde opsig van voorkoopsreg deur die persoon wat die eiendom verkry het, betaal of betaalbaar is;
- (c) enige vergoeding wat die persoon wat eiendom verkry het, bo en behalwe die vergoeding wat aan die persoon van wie die eiendom verkry is, betaalbaar is, aan enigemand hoegaande betaal het of onderneem het om te betaal ten opsigte van of in verband met die verkryging van die eiendom, behalwe enige huurgeld wat volgens 'n huur of onderhuur deur die sessioneer daarvan betaalbaar is.

(2) Waar die geheel of enige gedeelte van enige in sub-artsikel (1) bedoelde kommissie, geldie of vergoeding betaalbaar is by wyse van 'n huurgeld, tantieme, 'n deel in winste of enige ander periodieke betaling, of op 'n ander wyse as in kontant, dan word die waarde daarvan, vir die doelindes van die betaling van hereregte, *mutatis mutandis* ooreenkomsdig die bepaling van artikel ayt bepaal: Met dien verstande dat die waarde van sulke vergoeding bedoel in paraagraaf (b) van sub-artikel (1) aldus bepaal word soos op die datum waarop die opsig van voorkoopsreg verkry is deur die persoon wat die opsig van voorkoopsreg uitgeoefen het.

7. Vir die doelindes van die betaling van hereregte, word —
(a) hereregte of enige ander regte of belasting wat ten opsigte van die verkryging van eiendom betaalbaar is;

(b) die koste of geldie wat in verband niet die registrasie van die verkryging van eiendom betaalbaar is, uitgesluit van die vergoeding wat ten opsigte van die verkryging van eiendom betaalbaar is.

8. Waar die geheel of enige gedeelte van die vergoeding ten opsigte van die verkryging van eiendom betaalbaar is by wyse van 'n huurgeld, tantieme, 'n deel in winste of enige ander periodieke betaling, of op 'n ander wyse as in kontant, dan is die waarde van die aldus betaalbare vergoeding, vir die doelindes van die betaling van hereregte —

(a) waar die vergoeding in die vorm van 'n huurgeld, tantieme, 'n deel in winste of enige ander periodieke betaling is —

(i) indien die werkelike bedrae van die periodieke betalings vasgestel is, die totaal van bedoelde bedrae wat betaalbaar is oor die tydperk (met inbegrip van herenuwingstydperke) waarvoor die eiendom deur die persoon wat vir die betaling van die hereregte aanspreeklik is, verkry is;

(ii) indien die werkelike bedrae van die periodieke betalings nie vasgestel is nie of indien die eiendom vir 'n onbepligte of onbeperkte tydperk vir die natuurlike lewe van iemand verkry is, 'n waarde wat die Kommissaris onder die omstandighede blylik ag;

(b) waar die vergoeding in die vorm van goedere, dienste, regte of voorregte is, die lopende markwaarde van die goedere, dienste, regte of voorregte op die datum van die transaksie, of waar die markwaarde van sulke goedere, dienste, regte of voorregte op die datum van die transaksie nie vasgestel kan word nie, 'n waarde wat die Kommissaris onder die omstandighede blylik ag;

(c) waar die vergoeding in die vorm van aandele in, of ander sekuriteite van 'n maatskappy, hetas reeds geregistreer of wat nog geregistreer dient te word, is, of in die vorm van regte is ont sodanige aandele van sekuriteite te verkry, die waarde van sulke aandele, sekuriteite of regte daarop, welke waarde —

(i) in die geval van aandele of sekuriteite wat op die datum van die transaksie op enige erkende effektebeurs genoem word, hulle middelmarkprys op daardie datum is; of

(ii) in die geval van enige ander aandele, sekuriteite of regte daarop, 'n waarde is wat die Kommissaris onder die omstandighede blylik ag.

(1) No duty shall be payable in respect of the acquisition of property by —

- (a) the Administration or the Government (including the railway administration) of the Union of South Africa.
- (b) municipalities, village management boards or other local institutions of a similar nature.

(c) an ecclesiastical, charitable or educational institution of a public character in respect of property acquired for ecclesiastical, charitable or educational purposes exclusively: Provided that if any such property or any portion thereof is subsequent to the acquisition thereof used for some purpose other than exclusively for ecclesiastical, charitable or educational purposes, duty shall become payable in respect of the acquisition of that property or of that portion thereof, and the date upon which that property or that portion thereof was first used for that other purpose, shall for the purposes of sub-section (1) of section three and section four be deemed to be the date of acquisition thereof;

(d) any institution or body in respect of property acquired for the purpose of a public hospital subject *mutatis mutandis* to the proviso to paragraph (c);

(e) any heir or legatee, who is a direct descendant or ascendant of a deceased person from whose estate the property is acquired, in respect of —

- (i) property acquired by *ab intestato* or testamentary succession or as a result of a re-distribution of the assets of a deceased estate in the process of liquidation; or
- (ii) the amount by which the value of property so acquired is enhanced by the renunciation of an interest in or restriction upon the use or disposal of such property;

(f) a surviving spouse in respect of property acquired in any manner from the estate of the deceased spouse;

(g) a joint owner of property in respect of the acquisition and registration in his name of a defined portion of the property allotted to him upon partition of the property, but not in respect of any consideration payable by him in order to equalize the partition or for any other reason;

(h) a joint owner of property who acquires the sole ownership in the whole or a portion of the property, in respect of so much of the value of the property in which sole ownership is acquired as represents his share in the joint ownership of that property;

(i) a surviving or divorced spouse who acquires the sole ownership in the whole or any portion of property registered in the name of his deceased or divorced spouse to whom he was married in community of property, in respect of so much of the value of the property in which sole ownership is acquired as represents his share in that property by virtue of the marriage in community of property.

(2) No duty shall be payable by a person who requires his ownership in property to be registered in his name in a deeds registry where there has been an error in the registration of the acquisition of the property, provided the duty payable in respect of that acquisition has been duly paid.

(3) No duty shall be payable in respect of the registration jointly in the names of partners of any property which is registered in the name of the partnership carried on by such partners.

(4) No duty shall be payable —

- (a) in respect of a change in the registration of property required as a result of the termination of the appointment of an administrator of a trust under a will or other written instrument or of a trustee of an insolvent estate; or
- (b) where trust property is transferred by the administrator of a trust to the persons entitled thereto under the will or other written instrument in pursuance of which such administrator was appointed; or
- (c) where property is restored by a trustee of an insolvent estate to the insolvent; or
- (d) where property registered in the name of a person who holds it on behalf of another (whether a person born or to be born) is transferred to that other person.

(1) Geen hereregte is betaalbaar nie ten opsigte van die verkryging van eiendom deur —

(a) die Administrasie van Suidwes-Afrika of die Regering (met inbegrip van die spoorwegadministrasie) van die Unie van Suid-Afrika;

(b) munisipaliteit, dorpsbesture of ander plaaslike inrigtings van soorliglyke aard;

(c) 'n godsdienstige, liefdadigheids- of opvoedkundige Inrigting van 'n openbare aard ten opsigte van eiendom wat verky is uitsluitlik vir godsdienstige, liefdadigheids- of opvoedkundige doeleindes: Met dien verstande dat indien enige sodanige eiendom of enige gedeelte daarvan, na die verkryging daarvan gebruik word vir 'n ander doel as uitsluitlik vir godsdienstige, liefdadigheids- of opvoedkundige doeleindes, hereregte betaalbaar is op die verkryging van bedoelde eiendom of van bedoelde gedeelte daarvan, en die datum waarop bedoelde eiendom of bedoelde gedeelte daarvan vir die eerste keer vir daardie ander doel gebruik is, word by die toepassing van sub-artikel (1) van artikel drie en artikel vier, geag die datum van verkryging daarvan te wees;

(d) enige instelling of liggaam ten opsigte van eiendom verky vir die doeleindes van 'n openbare hospital, onderworpe *mutatis mutandis* aan die voorbehoudbepaling by paraafraag (e);

(e) 'n erfgenaam of legataris wat 'n regstreekse afstammeling of voorouer is van 'n gestorwe persoon uit wie se boedel die eiendom verky is, ten opsigte van —

- (i) eiendom wat by wyse van erfopvolging *ab intestato* of volgens testament of ten gevolge van 'n herverdeling van die bates van 'n afgestorwe boedel onder likwidasie, verky is; of

- (ii) die bedrag waarmee die waarde van aldus verkryde eiendom verhoog is ten gevolge van die afstand van 'n belang in of beperking op die gebruik van of beskikking oor sulke eiendom;

(f) 'n langslewende eggenoot ten opsigte van eiendom wat op enige wyse uit die boedel van die orlede eggenoot verky is;

(g) 'n mede-eienaar van eiendom ten opsigte van die verkryging en registrasie op sy naam van 'n omskrowe gedeelte van die eiendom wat by 'n verdeling van die eiendom aan hom toegeken is, dog nie ten opsigte van enige vergoeding wat, ten einde die verdeling gelykop te maak of om enige ander rede, deur hom betaalbaar is nie;

(h) 'n mede-eienaar van eiendom wat alleen-eiendomsreg op die geheel of 'n gedeelte van die eiendom verky, ten opsigte van soveel van die waarde van die eiendom waarop alleen-eiendomsreg verky word soos gelyk staan aan die waarde van sy aandeel in die mede-eiendomsreg op daardie eiendom;

(i) 'n langslewende of geskeide eggenoot wat alleen-eiendomsreg op die geheel of 'n gedeelte van eiendom wat op naam van sy oorlede of geskeide eggenoot met wie hy in gemeenskap van goedere getroud was, geregistree staan, ten opsigte van soveel van die waarde van die eiendom wanop alleen-eiendomsreg verky word soos gelyk staan aan die waarde van sy aandeel in daardie eiendom ten gevolge van die huwelik in gemeenskap van goedere.

(2) Geen hereregte is betaalbaar nie deur iemand wat verlang dat sy eiendomsreg op eiendom op sy naam in 'n registrasiekantoor geregistreer moet word waar daar 'n fout in die registrasie van die verkryging van die eiendom was, niets nie hereregte wat ten opsigte van daardie verkryging betaalbaar was, behoorlik betaalbaar is:

(3) Geen hereregte is betaalbaar nie ten opsigte van die registrasie gesentamlie op die name van vennote van eiendom wat geregistreer staan op naam van die vennootskap wat deur daardie vennote gedryf word.

(4) Geen hereregte is betaalbaar nie —

(a) ten opsigte van 'n verandering in die registrasie van eiendom ten gevolge van die beëindiging van die aantelling van 'n administrateur van 'n trust kragtens 'n testament of ander geskrif geskryf waarvan so 'n administrateur aangeset is, diarop geregteig is; of

(b) waar trust-eiendom deur die administrateur van 'n trust oorgedra word aan die persone wat kragtens die testament of ander geskrif ingevolge waarvan so 'n administrateur aangeset is, diarop geregteig is; of

(c) waar eiendom deur 'n kurator van 'n insolvente boedel aan die insolvent terugberg word; of

(d) waar eiendom wat geregistreer staan op naam van iemand wat dit ten behoeve van 'n ander (hetself iemand wat gebore is of nog gebore moet word) hou, aan daardie ander persoon oorgedra word.

(5) (a) No duty shall be payable by a person who, as surety for the payment of the consideration payable under a transaction, pays the consideration and seeks transfer of the property in question into his own name, provided —

- (i) the duty has been paid in respect of the acquisition of the property under the transaction; and
- (ii) no further consideration is payable by the surety to either party to the transaction.

(b) If further consideration is payable by a surety referred to in paragraph (a) to either party to the transaction, duty shall be payable by him on the value of that further consideration.

(6) No duty shall be payable in respect of the acquisition of property by way of a transaction, if the transaction—

(a) is declared void by a competent court;

(b) in terms of which the property is acquired from a person whose estate is sequestrated subsequent to the date of the transaction, becomes void by reason of the sequestration;

(c) in terms of which property is acquired by a person whose estate is sequestrated prior to the registration of the acquisition by him of the property, is abandoned by the trustee of his insolvent estate.

10. (1) The Commissioner, who shall be the Secretary for South West Africa, shall be responsible for the administration of this Ordinance.

(2) The powers conferred and the duties imposed upon the Commissioner by this Ordinance may be exercised or performed by the Commissioner personally or by any officer acting under a delegation from or under the control or direction of the Commissioner.

11. (1) The Commissioner may —

(a) call upon any person to furnish to him, under oath or not, as he may direct, any information or to produce any documents which the Commissioner may consider necessary for the purpose of determining the amount of the duty payable in respect of the acquisition of any property;

(b) require the person liable to pay the duty or any other person to appear before him for the purpose of clarifying any valuation made by any such person;

(c) decline to accept any payment of duty otherwise than as a deposit on account of duty until the appropriate declarations referred to in section fourteen are submitted to him.

(2) If the Commissioner is satisfied that the declaration required to be completed by any one of the parties to a transaction or by a person who has acquired property otherwise than by way of a transaction, cannot be obtained, be may, notwithstanding the provisions of sub-section (1) of section fourteen, dispense with the production of such declaration or may accept in lieu thereof a declaration by some other person whom he considers able to furnish the particulars required to be given.

(3) (a) Where in terms of sub-section (2) of section three a deposit on account of the duty payable by any person is made pending the determination by the Commissioner of the fair value of the property concerned, of an amount equal to the duty calculated on the consideration paid or payable in respect of the acquisition of the property or on the declared value thereof, as the case may be, and there is given to the Commissioner security to his satisfaction for the payment of any balance of transfer duty or stamp duty which may still be payable, the Commissioner may in his discretion issue to the person liable to pay the duty a certificate that such deposit has been made and that such security has been given.

(b) No fee shall be payable in respect of a certificate issued under paragraph (a).

12. (1) No registration officer shall make any record in his deeds registry of an acquisition of property acquired on or after the commencement of this Ordinance —

(a) unless the receipt for payment of the duty payable in respect of the requisition, other than a receipt for a deposit on account of duty, has been lodged with him, or unless he is satisfied that no duty is, under this Ordinance or any other law, payable in respect of the acquisition; or

(5) (a) Geen hereregte is betaalbaar nie deur iemand wat, as borg vir die betaling van die vergoeding wat ingevolge 'n transaksie betaalbaar is, die vergoeding betaal en oordrag van die betrokke eiendom op sy naam verlang mens —

(i) hereregte ten opsigte van die verkryging van die eiendom ingevolge die transaksie betaalbaar is; en

(ii) geen verdere vergoeding deur die borg aan enigeen van die partye by die transaksie betaalbaar is nie.

(b) Indien verdere vergoeding deur 'n in paraagraaf (a) bedoelde borg aan enigeen van die partye by die transaksie betaalbaar is, is hereregte deur hom betaalbaar op die waarde van daardie verdere vergoeding.

(6) Geen hereregte is betaalbaar nie ten opsigte van die verkryging van eiendom by wyse van 'n transaksie, indien die transaksie —

(a) deur 'n bevoegde hof nietig verklaar word;

(b) ingevolge waarvan die eiendom verkry word van iemand wie se boedel na die datum van die transaksie gesekwestreer word, nietig word ten gevolge van die sekwestrasie;

(c) ingevolge waarvan elendom verkry word deur iemand wie se boedel gesekwestreer word voor die registrasie van die verkryging deur hom van die eiendom, verwerp word deur die kurator van sy insolvente boedel.

10. (1) Die Kommissaris wat die Sekretaris van Suidwes-Afrika is, is verantwoordelik vir die uitvoering van hierdie Ordonnansie.

(2) Die bevoegdheede en pligte by hierdie Ordonnansie aan die Kommissaris opgeleë kan deur die Kommissaris self of deur 'n amptenaar in opdrag of onder beheer of leiding van die Kommissaris, uitgeoefen of verrig word.

11. (1) Die Kommissaris kan —

(a) enigemank aansê om aan hom enige inligting, onder eed of nie, soos hy mag gelas, te verstrek of enige stukke voor te leê wat die Kommissaris nodig mag ag vir die bepaling van die bedrag wat aan hereregte ten opsigte van die verkryging van enige eiendom betaalbaar is;

(b) gelas dat die persoon wat vir betaling van hereregte aanspreeklik is of enige ander persoon, voor hom verskyn vir die doel om enige waardering wat deur enige sodanige persoon gemaak is, te verduidelik;

(c) weier om enige betaling van hereregte aan te neem behalwe as 'n deposito teen hereregte, voordat die gepaste verklarings in artikel veertien bedoel, aan hom voorgelê word.

(2) Indien die Kommissaris oortuig is dat die verklaring wat deur enige van die partye by 'n transaksie of deur iemand wat eiendom op 'n ander wyse as by wyse van 'n transaksie verkry het, voltooi moet word, nie verkry kan word nie, kan hy, ondanks die bepальings van sub-artikel (1) van artikel sexties, van die voorlegging van bedoelde verklaring afsien, of kan hy in die plek daarvan 'n verklaring aanneem van iemand anders wat hy in staat ag om die vereiste besonderhede te vertrek.

(3) (a) Waar daar ingevolge sub-artikel (2) van artikel drie 'n deposito teen hereregte wat deur enigemank betaalbaar is, betaalbaar word hangende die bepaling deur die Kommissaris van die billelike waarde van die betrokke eiendom, van 'n bedrag wat gelykstaan aan die hereregte opgerig op die vergoeding betaal van die eiendom, of op die verklaarde waarde daarvan, nu gelang van die geval, en daar aan die Kommissaris sekerheid tot sy geneig gestel word vir die betaling van enige saldo hereregte of sedertrede wat nog betaalbaar mag wees, kan die Kommissaris, na sy goeddunken, aan die persoon wat vir die betaling van die hereregte aanspreeklik is, 'n sertifikaat uitreik dat bedoelde deposito betaalbaar is en dat bedoelde sekerheid gestel is.

(b) Geen geldie is ten opsigte van 'n kragtens paraagraaf (a) uitgereiklike sertifikaat betaalbaar nie.

12. (1) Geen registrasieamptenaar mank enige aantekening in sy registrasiekantoor van 'n verkryging van eiendom wat op of na die inwerkingtreding van hierdie Ordonnansie verkry is nie —

(a) tensy die kwitanse vir die betaling van die hereregte wat ten opsigte van die verkryging betaalbaar is, behalwe 'n kwitanse vir 'n deposito teen hereregte, by hom liggewe is, of tensy hy oortuig is dat geen hereregte kragtens hierdie Ordonnansie of enige ander Wet ten opsigte van die verkryging betaalbaar is nie;

(b) if he has reason to believe that the amount of duty paid in respect of the acquisition is less than the amount of duty payable under this Ordinance.

(2) The provisions of sub-section (1) shall not apply with reference to an acquisition of property in respect of which there is lodged with the registration officer a certificate issued in terms of paragraph (a) of sub-section (3) of section eleven.

(3) Any dispute as to any person's right to exemption from the payment of duty or as to the amount of duty payable under this Ordinance shall be referred by the registration officer to the Commissioner.

13. (1) Whenever the Commissioner is satisfied that the duty payable under this Ordinance in respect of the acquisition of any property has not been paid in full, he shall, notwithstanding that the acquisition has already been registered in a deeds registry, recover the difference between the amount of the duty payable and the amount paid.

(2) Any amount payable in terms of sub-section (1) shall be payable in accordance with and subject to the provisions of sections three and four.

14. (1) Declarations appropriate to the manner of the acquisition of property in any particular case shall, in substance as near as possible to the forms prescribed by the Commissioner by notice in the *Gazette*, be completed by the parties to the transaction whereby the property has been acquired and, if the Commissioner so directs, also by the agent, auctioneer, broker or other person who acted for or on behalf of either party to the transaction or, if the property has been acquired otherwise than by way of a transaction, by the person who acquired the property.

(2) Where no suitable form of declaration has been prescribed by the Commissioner for any particular kind of acquisition of property, he may require from any person concerned in the acquisition a declaration setting forth the material facts of the case and containing such other information as he may consider necessary.

15. (1) Every auctioneer or other person who has effected a sale of property on behalf of some other person shall, for a period of five years from the date on which the sale was effected, keep a record of the sale including a description of the property sold, the person by whom and the person to whom the property has been sold and the price paid for the property.

(2) Records kept in terms of sub-section (1) shall at all reasonable times be produced to the Commissioner on demand for his inspection.

(3) Any person who fails to comply with any provision of this section shall be guilty of an offence and liable on conviction to a fine not exceeding twenty-five pounds or to imprisonment for a period not exceeding three months.

16. (1) Where property is sold to a person who is acting for some other person, the person so acting shall disclose to the seller or his agent the name and address of the principal for whom he acts —

- (i) if the sale is by auction, immediately upon acceptance by the auctioneer of his offer; or
- (ii) if the sale is otherwise than by auction, immediately upon conclusion of the agreement of sale.

(2) Any person who fails to comply with the provisions of sub-section (1) shall, for the purpose of the payment of the duty payable in respect of the acquisition of the property in question, be presumed, unless the contrary is proved, to have acquired the property for himself.

17. (1) Any person who fails to comply with any requirement or demand by the Commissioner under this Ordinance or who knowingly submits or causes to be submitted to the Commissioner a declaration referred to in section fourteen which fails to disclose any material fact relevant to the nature of the transaction by which property has been acquired or to the consideration payable in respect of any property or to the value on which duty is payable, shall be guilty of an offence and liable on conviction to a fine not exceeding one hundred pounds or to imprisonment for a period not exceeding one year.

(2) Any person who makes in any declaration referred to in section fourteen a false statement knowing it to be false shall be guilty of an offence and liable on conviction to the penalties prescribed for the crime of perjury.

(b) Indien hy rede het om te vermoed dat die bedrag wat aan hereregtie ten opsigte van die verkryging van eiendom is, minder is dan die bedrag wat aan hereregtie ingevoer word hierdie Ordonnansie betaalbaar is.

(2) Die bepaling van sub-artikel (1) is nie van toepassing nie met betrekking tot 'n verkryging van eiendom ten opsigte waarvan daar by die registrasieamptenaar 'n ingevoerde paragraaf (a) van sub-artikel (3) van artikel elf uitgereiklike certifikate ingedien word.

(3) Enige geskik in verband met enigemand so reg op vrystelling van die betaling van hereregtie of in verband met die bedrag wat volgens hierdie Ordonnansie aan hereregtie betaalbaar is, word deur die registrasieamptenaar na die Kommissaris verwys.

13. (1) Wanneer die Kommissaris oortuig is dat die volgens hierdie Ordonnansie betaalbare hereregtie ten opsigte van die verkryging van enige eiendom nie ten volle betaal is nie, moet hy al is die verkryging reeds in 'n registrasiekantoor geregistreer, die verskil tussen die bedrag aan hereregtie betaalbaar en die betaalde bedrag inverder.

(2) Enige bedrag wat ingevoer sub-artikel (1) betaalbaar is, is ooreenkoms en onderworp aan die bepaling van artikel drie en vier betaalbaar.

14. (1) Gepaste verklarings volgens die wyse van verkryging van eiendom in enige besondere geval moet, in wese so soos moontlik aan die formuliere deur die Kommissaris by kennisgeving in die Offisiële Koerant voorgeskryf, voltooi word deur die partye by die transaksie waarby die eiendom verkry is, en indien die Kommissaris dit gelas, ook deur die agent, afslae, makelaar of ander persoon wat namens of ten behoeve van enigeen van die partye by die transaksie opgetree het of, indien die eiendom op 'n ander wyse as by wyse van 'n transaksie verkry is, deur die persoon wat die eiendom verkry het.

(2) Waar geen gepaste verklaringsformulier vir enige besondere soort van verkryging van eiendom deur die Kommissaris voorgeskryf is nie, kan hy van enigemant wat by die verkryging betrokke is 'n verklaring eis wat die wesenlike bevoegdheid van die gevraagde uiteenzit en wat sulke ander inligting bevat soos hy mag nodig ag.

15. (1) Elke afslae of ander persoon wat 'n verkoop van eiendom ten behoeve van 'n ander deurgestel het, moet vir 'n tydperk van vyf jaar vanaf die datum waarop die koop deurgestel is, 'n aantekening van die verkooping hou met inskryf van 'n beschrywing van die verkoopde eiendom, die persoon deur wie en die persoon aan wie die eiendom verkoop is en die prys wat vir die eiendom betaal is.

(2) Aanteeknings wat ingevoer sub-artikel (1) gehou word, moet te alle redelike tyd aan die Kommissaris op sy versoek vir inspeksie voorgelê word.

(3) Iemand wat in gebreke bly om aan enige bepaling van hierdie artikel te voldoen, is aan 'n misdryf skuldig en by skuldigheidsvinding strafbaar met 'n boete van hoogstens vyf-en-twintig pond of met gevangenisstraf vir 'n tydperk van hoogstens drie maande.

16. (1) Waar eiendom verkoopt word aan iemand wat namens iemand anders optree, moet die persoon wat aldus optree die naam en adres van die prinsipaal namens wie hy optree aan die verkoper of sy agent openbaar —

(i) indien die verkooping by veiling geskied, onmiddellik na aanname deur die afslae van sy aandel;

(ii) indien die verkooping op 'n ander wyse as by veiling geskied, onmiddellik na sluiting van die koopkontrak.

(2) Iemand wat in gebreke bly om aan die bepaling van sub-artikel (1) te voldoen, word vir die betaling van die heregtie wat ten opsigte van die verkryging van die betrokke eiendom betaalbaar is, vermoed die eiendom vir homself te verkry het tensy die teendeel bewys word.

17. (1) Iemand wat in gebreke bly om aan enige vereiste of lasgewing van die Kommissaris kragtigs hierdie Ordonnansie te voldoen, of wat wetens "in artikel veertien bedoelde verklaring" dat die Kommissaris voorlop van lant voorlê wat na laat om 'n wesenlike feit te openbaar wat ter sake dienend is met betrekking tot die aard van die transaksie waarby eiendom betaalbaar is, of tot die vorgoeding wat ten opsigte van eiendom betaalbaar is, of tot die waarde waarop hereregtie betaalbaar is, is aan 'n misdryf skuldig en by skuldigheidsvinding strafbaar met 'n boete van hoogstens honderd pond of met gevangenisstraf vir 'n tydperk van hoogstens 'n jaar.

(2) Iemand wat in artikel veertien bedoelde verklaring 'n valse bewering maak wetende dat dit vals is, is aan 'n misdryf skuldig en by skuldigheidsvinding strafbaar met die strawwe wat vir die misdaad van meineed voorgeskryf word.

18. (1) Any person who considers himself aggrieved by a decision of the Commissioner under sub-section (5) of section five or under section eight may, within thirty days after the decision became known to him, appeal against that decision by way of application on notice of motion to the High Court of South West Africa, on giving security to the satisfaction of the registrar of that Court for any costs that may be incurred by the Commissioner in connection with the appeal.

(2) The said High Court shall inquire into and consider the matter and shall confirm, vary or set aside the decision of the Commissioner or give such other decision as in its opinion the Commissioner ought to have given, and make such order as to costs, as it may deem fit.

(3) Any judgment given or order made by the said High Court in terms of sub-section (2) shall be subject to appeal to the Appellate Division of the Supreme Court of South Africa in the same manner and on the same conditions as a judgment given or order made in a civil proceeding in the said High Court.

(4) Any decision by the court in terms of sub-section (2) or (3) relating to the fair value of any property or to the value of any consideration payable in respect of the acquisition of any property, shall, for the purposes of this Ordinance, be deemed to be the decision of the Commissioner.

19. Any dispute between the Commissioner and any person who claims to be exempt from duty in respect of the acquisition of property may, on application by either party to the dispute, be determined by a judge of the High Court sitting in chambers after hearing the Commissioner and such person or their respective representatives.

20. If it is proved to the satisfaction of the Commissioner that duty has been paid in respect of an acquisition of property by a person who is or has become, in terms of this Ordinance or any other law as in force on the date of the acquisition, exempt from the payment of duty in respect of that acquisition, or that the amount of duty which has been paid is in excess of the amount payable, he may authorize a refund of the duty paid or of so much of the duty as has been overpaid, as the case may be.

21. The Transfer Duty Consolidation and Amendment Ordinance, 1935 (No. 23 of 1935), as amended by the Transfer Duty Amendment Ordinance, 1943 (No. 5 of 1943) is hereby repealed: Provided that any duty which has at the date of commencement of this Ordinance become payable under the Ordinances so repealed or under prior legislation shall be recovered in accordance with and subject to such repealed Ordinances or prior legislation, as the case may be.

22. This Ordinance shall be called the Transfer Duty Ordinance, 1951, and shall come into operation on the first day of July, 1951.

18. (1) Enigeland wat hom veronreg voeg deur 'n beslissing van die Kommissaris kragtens sub-artikel (5) van artikel vyf of kragtens artikel agt, kan hulle dertig dae nadat die beslissing aan hom bekend geword het, teen daardie beslissing hy wyse van applikasie na kennisgewing van moes appelleer na die Hoëhof van Suidwes-Afrika, nadat hy tot voldoende van die grifler van daardie Hoëhof aekerkheid gestel het vir enige koste wat deur die Kommissaris in verband met dié appéel aangegegaan mag word.

(2) Bedoelde Hoëhof moet die saak ondersoek enoorweeg en die bestessing van die Kommissaris bevestig, wysig of tersyde stel of sodanige ander beslissing gee soos die Kommissaris na sy mening moes gegee het en kan sodanige bevel met betrekking tot koste gee soos hy myns goedgevind.

(3) 'n Uitspraak van hevel deur genoemde Hoëhof ingevolge sub-artikel (2) gegee, is onderworpe aan appéel na die Afdeling van Appel van die Hooggereghof van Suid-Afrika op dieselfde wyse en voorwaarde as 'n uitspraak of bevel wat in 'n siviele geding in daardie Hoëhof gegee is.

(4) 'n Beslissing van die hof ingevolge sub-artikel (2) of (3) met betrekking tot die billike waarde van elendom of tot die waarde van enige vergoeding wat ten opsigte van die verkryging van elendom betaalbaar is, word by die toepassing van hierdie Ordonnansie, geag die beslissing van die Kommissaris te wees.

19. 'n Geskil tussen die Kommissaris en lemand wat daarop aanspraak maak dat hy van hereregte ten opsigte van die verkryging van elendom onthel is, kan op aansoek van enigeen van die partye wat by die geskil betrokke is, deur 'n regter van die Hoëhof in kamers besleg word nadat die Kommissaris en sodanige persoon of hul onderskele verteenwoordigers gehoor is.

20. Indien dit tot bevrediging van die Kommissaris bewys word dat hereregte betaal is ten opsigte van 'n verkryging van elendom deur lemand wat, ingevolge hierdie Ordonnansie of enige ander wet soos op die datum van die verkryging in werking, van die betaling van hereregte ten opsigte van daardie verkryging onthel is of geword het, of dat die bedrag wat aan hereregte betaal is meer is as die bedrag wat betaanbaar is, kan hy 'n terugbetaling van die betaalde hereregte of soveel van die hereregte soos te veel betaal is, na gelang van die geval, maagtig.

21. Die Ordonnansie betreffende die Konsolidasie en Wysiging van Hereregte 1935 (Ordonnansie 23 van 1935) soos gewysig by die Wysigingsordonnansie betreffende Hereregte 1943 (Ordonnansie 5 van 1943) word hierby herroep: Met dien verstaande dat hereregte wat op die datum van die inwerkingtreding van hierdie Ordonnansie ingevolge die aldus herroepde Ordonnansies of enige ander voorafgaande wetgeving betaanbaar geword het, ooreenkonsig; en onderworpe na sodanige herroepde Ordonnansies of voorafgaande wetgeving, na gelang van die geval, ingevorder mag word.

22. Hierdie Ordonnansie het die Ordonnansie op Hereregte 1951, en tree in werking op die eerste dag van Julie 1951.