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DEPARTMENT OF THE PRIME MINISTER

DEPARTEMENT VAN DIE EERSTE MINISTER

No. 1846.

11 October 1974.

No. 1846.

11 Oktober 1974.

It is hereby notified that the State President has assented to the following Act which is hereby published for general information:—

Hierby word bekend gemaak dat die Staatspresident sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 44 of 1974: Railways and Harbours Acts Amendment Act, 1974.

No. 44 van 1974: Wysigingswet op Spoorweg- en Hawewette, 1974.

RAILWAYS AND HARBOURS ACTS AMENDMENT ACT, 1974. Act No. 44, 1974

ACT

To amend section 9 of the Railways and Harbours Construction Act, 1931, so as to provide for the further deferment of the right to purchase the private jetty and railway at Port Nolloth; to amend section 1 of the Railways and Harbours Control and Management (Consolidation) Act, 1957, so as to extend the definition of "railways" to include any area within the limits of an airport; to amend section 2 of the said Act so as to provide for the endorsement of title deeds to the effect that certain property disposed of by the Administration may not be alienated separately from the property of the transferee; to amend section 58 of the said Act so as to provide for the sale of intoxicating liquor to Bantu on railway stations and for the supply thereof at harbours; to amend section 7 of the Railways and Harbours Service Act, 1960, so as to provide for the period of notice a servant in permanent employment is to be given on the termination of his services on grounds other than disciplinary infringement; to amend sections 11, 13 and 32 of the lastmentioned Act, to repeal section 12 of the Second Railways and Harbours Acts Amendment Act, 1969, and to amend section 17 of the Railways and Harbours Pensions Act, 1971, so as to provide for revised annuities and other pension benefits; to amend section 17 of the Railways and Harbours Service Act, 1960, so as to bring it into conformity with the provisions of section 1(1) of the Assessment of Damages Act, 1969, with regard to an award in respect of a claim arising from the death of a servant in the course of his duties; to amend section 20 of the Railways and Harbours Service Act, 1960, so as to provide for the award of medals and decorations to members of the Railway Police Force at the discretion of the Minister; to substitute section 23 of the lastmentioned Act to make it an offence for a servant to perform certain duties when the amount of alcohol in his blood exceeds a specified percentage and to provide for the imposition of a maximum penalty for such offence; to amend section 2 of the Level Crossings Act, 1960, so as to provide for an increase in contributions towards the Level Crossings Elimination Fund; to amend the provisions of section 3 of the lastmentioned Act pertaining to the constitution of the Permanent Level Crossings Committee; to validate certain changes in conditions of employment; and to provide for other incidental matters.

(Afrikaans text signed by the State President.)
(Assented to 3 October 1974.)

BE IT ENACTED by the State President, the Senate and the House of Assembly of the Republic of South Africa, as follows:—

RAILWAYS AND HARBOURS ACTS AMENDMENT ACT, 1974. Act No. 44, 1974

1. Section 9 of the Railways and Harbours Construction Act, 1931, is hereby amended by the substitution for the word "forty-five" of the word "sixty-five".

Amendment of section 9 of Act 43 of 1931, as amended by section 20 of Act 63 of 1951 and section 10 of Act 49 of 1955.

2. Section 1 of the Railways and Harbours Control and Management (Consolidation) Act, 1957 (hereinafter called "the Control and Management Act"), is hereby amended by the substitution for the definition of "railways", in subsection (1), of the following definition:

Amendment of section 1 of Act 70 of 1957, as amended by section 5 of Act 25 of 1959, section 6 of Act 62 of 1961, section 5 of Act 62 of 1962, sections 11 and 44 of Act 6 of 1965 and section 2 of Act 24 of 1971.

"'railways' means—

- (a) all lines of railway within the Republic over which the Administration has control or running rights;
- (b) all lands, stations, sidings, buildings, plant, machinery, rolling-stock and all other movable or immovable property and servitudes used in connection with—
 - (i) any such line of railway; or
 - (ii) the Administration's road motor transport services; and
- (c) any area of land within the limits of an airport;".

3. Section 2 of the Control and Management Act is hereby amended by the insertion, after subsection (1), of the following subsection:

Amendment of section 2 of Act 70 of 1957, as amended by section 1 of Act 4 of 1958, section 3 of Act 7 of 1963, section 5 of Act 39 of 1963, section 2 of Act 54 of 1964, sections 12 and 44 of Act 6 of 1965, section 1 of Act 60 of 1968, section 3 of Act 32 of 1969 and section 3 of Act 24 of 1971.

"(1)*bis* to authorize the registrar of deeds concerned in writing, when transfer is registered of immovable property alienated in terms of subsection (1), to endorse on the title deed of such immovable property and any other immovable property of the transferee, a restriction to the effect that such immovable property and such other immovable property shall not without the consent of the Administration be alienated separately. The said registrar shall give effect to the said authorization in such manner as may to him appear to be most practicable and convenient, and thereupon such restriction shall be valid and effective against all persons except against any person (including the State) in whose favour a mortgage bond or other charge was registered against any immovable property prior to the endorsement of the said restriction on the title deed of such immovable property. The Administration may authorize the said registrar in writing to cancel any restriction and the registrar shall give effect to any such authorization in such manner as may to him appear to be most practicable and convenient. The Administration may, notwithstanding anything to the contrary in any law contained, grant the said authorization subject to such conditions as it may deem fit;".

4. Section 58 of the Control and Management Act is hereby amended—

Amendment of section 58 of Act 70 of 1957, as amended by section 5 of Act 7 of 1963, section 34 of Act 6 of 1965 and section 8 of Act 24 of 1971.

(a) by the substitution for paragraph (b) of subsection (1) of the following paragraph:

"(b) In the exercise of its powers under paragraph (a) the Administration may sell intoxicating liquor also to any Bantu (as defined in subsection (7) of section *sixty bis*) of the age of eighteen years or more, and any such Bantu may purchase intoxicating liquor from the Administration and may possess any liquor so purchased by him;"; and

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(b) by the substitution for paragraph (b) of subsection (2) of the following paragraph:

“(b) at a place (other than a railway junction, a harbour or an airport) situate outside an urban area as defined in section *one hundred and seventy-five* of the Liquor Act, 1928 (Act No. 30 of 1928); or”.

5. Section 7 of the Railways and Harbours Service Act, 1960 (hereinafter called “the Service Act”), is hereby amended by the insertion, after subsection (1), of the following subsection: “(1A) On the termination of his employment on grounds other than a disciplinary infringement, a servant in permanent employment shall be entitled to thirty days notice or pay in lieu thereof.”

Amendment of section 7 of Act 22 of 1960, as amended by section 48 of Act 6 of 1965 and section 8 of Act 47 of 1973.

6. (1) Section 11 of the Service Act is hereby amended by the substitution for paragraph (c) of the following paragraph:

Amendment of section 11 of Act 22 of 1960.

“(c) (i) Any officer referred to in paragraph (b) whose continuous employment, due regard being had to the provisions of paragraph (e), has in the aggregate been fifteen years or more, and any such officer whose age is forty-five years or more and whose continuous employment has in the aggregate been ten years or more, shall receive from revenue, at his option, either—

(1) pension benefits equal in amount to the benefits (if any) he would be entitled to receive, in terms of the Pension Regulations, from the fund of which he is a member on his retirement owing to ill-health; or

(2) a gratuity and a refund of the contributions, if any, referred to in the said paragraph.

(ii) Any employee referred to in paragraph (b) whose continuous employment has been twenty years or more, or any such employee who has attained the age of fifty and whose continuous employment has been ten years or more, shall receive from revenue, at his option, either—

(1) pension benefits equal in amount to the benefits (if any) he would be entitled to receive, in terms of the Pension Regulations, from the fund of which he is a member on his retirement owing to ill-health; or

(2) a gratuity and a refund of the contributions, if any, referred to in the said paragraph.”

(2) Subsection (1) shall be deemed to have come into operation on 1 December 1973.

7. (1) Section 13 of the Service Act is hereby amended—

Amendment of section 13 of Act 22 of 1960, as amended by section 13 of Act 62 of 1961, sections 49 and 60 of Act 6 of 1965, section 4 of Act 60 of 1968, section 2 of Act 41 of 1969 and section 6 of Act 85 of 1971.

(a) by the substitution for paragraph (dA) of subsection (4) of the following paragraph:

“(dA) An annuity payable in terms of this subsection shall be increased by—

(i) five per cent if the deceased annuitant ceased to be a member of the New Fund on or before the first day of December, 1973; and

(ii) two per cent, compounded annually, from the first day of the month of the anniversary of the date on which an annuity first became payable to the deceased annuitant, such increases being calculated from the date an annuity first became payable to the deceased annuitant.”;

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- (b) by the substitution for paragraph (dB) of subsection (4) of the following paragraph:

“(dB) An annuity payable in terms of this subsection shall be further increased in accordance with Pension Regulation No. 48.”;

- (c) by the substitution for paragraph (b) of subsection (7) of the following paragraph:

“(b) Any annuity granted to a widow in terms of subsection (6), increased by ten per cent or five per cent, as the case may be, shall be increased by two per cent, compounded annually, from the first day of the month of the anniversary of the date on which an annuity first became payable to the deceased annuitant, such increases being calculated from the date an annuity first became payable to the deceased annuitant.”; and

- (d) by the substitution for paragraph (c) of subsection (7) of the following paragraph:

“(c) Any annuity granted to a widow in terms of subsection (6) shall be further increased in accordance with Pension Regulation No. 48.”.

(2) Paragraphs (b) and (d) of subsection (1) shall be deemed to have come into operation on 1 April 1973 and paragraphs (a) and (c) of that subsection shall be deemed to have come into operation on 1 December 1973.

8. Section 17 of the Service Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) A servant whose earnings, calculated in the manner set forth in section 41 of the Workmen's Compensation Act, 1941 (Act No. 30 of 1941), exceed the sum mentioned in section 3 (2) (b) of that Act shall, notwithstanding the provisions of the said section, be deemed to be a workman within the meaning of that Act: Provided that, notwithstanding anything in section 7 of that Act or in any other law contained, where an accident in respect of which compensation is payable is due to the negligence of the Administration or of a servant of the Administration, other than the injured or deceased servant, acting in the course of his employment, the servant or, if he is deceased, his dependants may claim an award from the Administration equivalent to the pecuniary loss caused by the accident, less the compensation payable in terms of that Act and any other benefit (other than the insurance money, pension or benefit referred to in section 1 (1) of the Assessment of Damages Act, 1969 (Act No. 9 of 1969), in the case of a dependant's claim) that may accrue as a result of the accident.”.

Amendment of section 17 of Act 22 of 1960, as amended by section 4 of Act 54 of 1964, section 60 of Act 6 of 1965, section 6 of Act 8 of 1968 and section 3 of Act 33 of 1972.

9. Section 20 of the Service Act is hereby amended by the substitution, in paragraph (a) of subsection (2), for the words “General Manager”, where they occur for the first time, of the word “Minister”.

Amendment of section 20 of Act 22 of 1960, as amended by section 10 of Act 7 of 1963, section 6 of Act 54 of 1964, section 51 of Act 6 of 1965 and section 10 of Act 47 of 1973.

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10. The following section is hereby substituted for section 23 of the Service Act:

“Servants on duty while under the influence of alcoholic liquor or dependence-producing drugs or while the percentage of alcohol in their blood expressed in grams per one hundred millilitres of blood is not less than 0,08 per cent.

23. Any servant who is under the influence of alcoholic liquor or dependence-producing drugs as defined in the Abuse of Dependence-producing Substances and Rehabilitation Centres Act, 1971 (Act No. 41 of 1971), or whose blood contains a percentage of alcohol which, expressed in grams per one hundred millilitres of blood, is not less than 0,08 per cent—

(a) while in charge of or on duty as a driver or other member of the crew of a locomotive or other engine, or as a ticket examiner or guard, or as station master, station foreman, shunter, crossing attendant or signalman, or as a telegraphist or telephonist transmitting or receiving messages in relation to the movement of trains, or as a pilot, crane driver or person in charge of any Government craft or marine engine; or

(b) while on duty in any capacity other than one of those mentioned in paragraph (a) and whose performance of his duty while in such condition would be likely to endanger the safety of any person travelling or being on railway or harbour property,

shall in the case of dependence-producing drugs be guilty of an offence and liable on conviction to the penalty for which provision is made in the said Abuse of Dependence-producing Substances and Rehabilitation Centres Act, 1971, and shall in the case of alcoholic liquor or alcohol in the blood be guilty of an offence and liable on conviction to a fine not exceeding eight hundred rand or, in default of payment, to imprisonment for a period not exceeding two years, or to both such fine and such imprisonment.”.

11. (1) Section 32 of the Service Act is hereby amended by the substitution for paragraph (g)*bis* of subsection (1) of the following paragraph:

“(g)*bis* the control and administration of the savings fund to which non-White servants have contributed; the investment of the moneys in the fund; the payment from the fund of the amount contributed thereto by a servant, plus interest thereon, in the event of the servant's dying or for any reason leaving the Service; the calculation of the amount of such interest; the person or persons to whom any amount becoming payable from the fund in the event of a contributor's death, shall be paid; and the circumstances and conditions under which a contributor may be granted a refund of his contributions, with or without interest thereon, whilst still in the Service;”.

(2) Subsection (1) shall come into operation on a date fixed by the State President by proclamation in the *Gazette*.

12. (1) Section 2 of the Level Crossings Act, 1960, is hereby amended by the substitution, in subsection (2), for the words “four million five hundred thousand rand” of the words “seven million five hundred thousand rand”.

(2) Subsection (1) shall be deemed to have come into operation on 1 April 1974.

Substitution of section 23 of Act 22 of 1960, as amended by section 14 of Act 62 of 1961, section 13 of Act 7 of 1963, section 54 of Act 6 of 1965 and substituted by section 11 of Act 47 of 1973.

Amendment of section 32 of Act 22 of 1960, as amended by section 18 of Act 7 of 1963, section 58 of Act 6 of 1965 and section 5 of Act 18 of 1966.

Amendment of section 2 of Act 41 of 1960, as amended by section 71 of Act 6 of 1965, section 9 of Act 8 of 1968, section 11 of Act 24 of 1971 and section 6 of Act 33 of 1972.

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13. Section 3 of the Level Crossings Act, 1960, is hereby amended by the substitution for subparagraph (iii) of subsection (2) (a) of the following subparagraph:

“(iii) the Secretary for Transport shall nominate three, from persons employed in the Department of Transport, one of whom shall be a person qualified in civil engineering.”.

Amendment of section 3 of Act 41 of 1960, as amended by section 72 of Act 6 of 1965.

14. (1) Section 12 of the Second Railways and Harbours Acts Amendment Act, 1969, is hereby repealed.

(2) Subsection (1) shall be deemed to have come into operation on 1 December 1973.

Repeal of section 12 of Act 41 of 1969, as amended by section 9 of Act 85 of 1971.

15. (1) Section 17 of the Railways and Harbours Pensions Act, 1971, is hereby amended by the substitution for paragraph (a) of subsection (4) of the following paragraph:

“(a) Whenever membership of the New Fund is dated back, the member shall be required to pay arrear contributions to the New Fund on the following basis:

Amendment of section 17 of Act 35 of 1971, as substituted by section 14 of Act 33 of 1972.

(i) For the period of continuous service prior to the first day of the April, 1971, paymonth, at the rate prescribed in section 8 of the Railways and Harbours Superannuation Fund Act, 1960 (Act No. 39 of 1960), according to his age at the date from which contributions are to be paid, calculated on the pensionable emoluments drawn by him during the period to be covered up to the last day of the March, 1971, paymonth;

(ii) for the period of continuous service from the first day of the April, 1971, paymonth up to and including 30 November, 1973, at the rate of four per cent of the pensionable emoluments drawn by him during the period to be covered;

(iii) for the period of continuous service from 1 December, 1973, at the rate of six per cent of the pensionable emoluments drawn by him during the period to be covered;

(iv) in addition to the arrear contributions prescribed in subparagraphs (i), (ii) and (iii), the member shall pay compound interest thereon in respect of any period up to the date or dates when the payments are actually made at the rate of four and one half per cent per annum, compounded quarterly.”.

(2) Subsection (1) shall be deemed to have come into operation on 1 December 1973.

16. The changes in conditions of employment for which provision was made in Government Notice No. R.790, published on 18 May 1973 and in respect of which the amending regulations relating thereto were not approved by the State President before the expiration of the period of three months mentioned in section 32 (3) of the Railways and Harbours Service Act, 1960 (Act No. 22 of 1960), are hereby validated with effect from the date as from which such changes were brought into operation.

Validation of certain changes in conditions of employment.

17. This Act and any amendment thereof shall, with the exception of sections 1, 12 and 13 thereof, apply also in the territory of South West Africa, including the Eastern Caprivi Zipfel.

Application of Act to South West Africa.

18. This Act shall be called the Railways and Harbours Acts Amendment Act, 1974.

Short title.