

Please note that most Acts are published in English and another South African official language. Currently we only have capacity to publish the English versions. This means that this document will only contain even numbered pages as the other language is printed on uneven numbered pages.



REPUBLIC OF SOUTH AFRICA

GOVERNMENT GAZETTE

STAATSKOERANT

VAN DIE REPUBLIEK VAN SUID-AFRIKA

Registered at the Post Office as a Newspaper

As 'n Nuusblad by die Poskantoor Geregistreer

Price 20c Prys
Overseas 30c Oorsee
POST FREE—POSVRY

Vol. 131]

CAPE TOWN, 14 MAY 1976

No. 5122

KAAPSTAD, 14 MEI 1976

DEPARTMENT OF THE PRIME MINISTER

DÉPARTEMENT VAN DIE EERSTE MINISTER

No. 825.

14 May 1976

No. 825.

14 Mei 1976.

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 gehêg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 65 of 1976: Financial Relations Act, 1976.

No. 65 van 1976: Wet op Finansiële Verhoudings, 1976.

ACT

To consolidate the law regulating the financial relations between the Republic and the several provinces thereof and providing for the transfer of certain taxation and additional legislative powers to provincial councils; and to provide for matters incidental thereto.

(English text signed by the State President.)
 (Assented to 4 May 1976.)

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

1. (1) In this Act, unless the context otherwise indicates— Definitions.

(i) "financial year" means the period from the first day of April in any year to the thirty-first day of March in the next ensuing year; (i)

(ii) "provincial revenue fund" means, in relation to any province, the fund established in that province in terms of section 88 of the Republic of South Africa Constitution Act, 1961 (Act No. 32 of 1961); (ii)

(iii) "Treasury" means the Treasury as defined in section 1 (1) of the Exchequer and Audit Act, 1975 (Act No. 66 of 1975); (iii)

(2) Any reference in this Act to matters entrusted to a province shall be construed as a reference to matters entrusted to the province in question by the Republic of South Africa Constitution Act, 1961, this Act or any other law, and in connection with such matters "provincial council" means the provincial council of the province to which the matters have been entrusted.

2. All expenditure incurred by any province in respect of matters entrusted to that province shall be defrayed from the provincial revenue fund. Defraying of expenditure incurred in respect of matters entrusted to province.

3. The funds required by a province for the defraying of its normal or recurrent expenditure (as defined in section 6 (2) of the Provincial Finance and Audit Act, 1972 (Act No. 18 of 1972)) in respect of matters entrusted to it shall be derived from revenue as defined in section 1 of the said Provincial Finance and Audit Act, 1972, and which has, in terms of the provisions of section 2 (a) of that Act, to be credited to the revenue account referred to in that section, and a province shall not apply its funds to any purpose other than solely in respect of the matters entrusted to it. Source of funds for the defraying of normal or recurrent expenditure of provinces.

FINANCIAL RELATIONS ACT, 1976

Act No. 65, 1976

4. (1) Subject to the provisions of subsection (2), there shall be paid from the State Revenue Fund to the provincial revenue fund of each province, in respect of every financial year, from moneys appropriated by Parliament for the purpose, such subsidy as the Minister of Finance may determine after consultation with the Administrator of the province in question.

Subsidies to provincial revenue funds.

(2) In determining the subsidy payable to a province in terms of subsection (1), there shall be taken into account—

(a) the financial requirements of that province in respect of its normal or recurrent expenditure contemplated in section 3; and

(b) that province's capacity to pay, regard being had to the revenue, excluding money appropriated by Parliament, as defined in section 1 of the Provincial Finance and Audit Act, 1972 (Act No. 18 of 1972), which will accrue to that province:

Provided that the subsidy payable to a province, together with that province's capacity to pay, shall not be less than the financial requirements of that province.

(3) For the purposes of subsection (2), a province's financial requirements and capacity to pay shall be determined by the employment of such expenditure criteria and such revenue criteria as the Minister of Finance may determine after consultation with the Administrator of that province.

5. (1) For the purposes of the determination of the amounts to be appropriated by Parliament in any financial year in respect of subsidies payable to the provinces in terms of section 4, the Administrator of each province shall transmit to the Treasury on or before such date and in such form as the Treasury may from time to time direct, a statement of the amount which it is estimated will be required by the province in that financial year.

Calculation and method of payment of subsidies.

(2) The Treasury shall from time to time pay to the respective provinces from the amounts appropriated by Parliament such instalments as the Treasury may determine with due regard to the requirements of each province.

6. (1) The revenue derived from the taxes, fees, dues, licences and the other sources specified in Schedule 1, shall be received by the province in which such revenue arises and shall be paid into the provincial revenue fund.

Allocation of certain revenue to provinces with power of legislation in respect thereof.

(2) Notwithstanding anything to the contrary contained in sections 80 and 84 of the Republic of South Africa Constitution Act, 1961 (Act No. 32 of 1961), a provincial council shall, unless and until Parliament by law otherwise provides, have power to raise revenue by way of taxation through the sources specified in Schedule 1 and through no other sources whatever.

(3) The said sources of revenue shall, for the purposes of those sections of the Republic of South Africa Constitution Act, 1961, referred to in subsection (2), be deemed to be matters in respect of which a provincial council may, subject to the provisions of this Act, make ordinances, and any law which the provincial council was competent to make, which was in force in any province on 1 April 1945 and which provides for the raising or management of any such revenues, shall be deemed to be a law which the provincial council of that province may by ordinance repeal or amend in so far as it relates to such a source of revenue.

(4) The amount derived in any province from any source of revenue specified in Schedule 1 shall, if collected by the State, be paid over to that province with or without any deduction for the cost of collection, according as may be agreed upon between the Treasury and the province in question.

FINANCIAL RELATIONS ACT, 1976

Act No. 65, 1976

7. No provincial council may by ordinance impose, in respect of the failure to pay any tax referred to in section 6 on the date on which it becomes payable, a penalty at a rate exceeding—

Limitation of penalty on failure to pay tax.

- (a) thirty per cent per annum if the tax does not exceed twenty rand;
- (b) twenty per cent per annum if the tax exceeds twenty rand but does not exceed fifty rand;
- (c) fifteen per cent per annum if the tax exceeds fifty rand but does not exceed one hundred rand;
- (d) twelve per cent per annum if the tax exceeds one hundred rand,

calculated upon each completed two rand of the tax over the period during which the tax remains unpaid: Provided that any such penalty shall not exceed the total amount of the tax payable.

8. (1) A provincial council shall not have power to make an ordinance which imposes direct taxation in respect of—

Restriction of legislative power of provincial councils in certain respects.

- (a) rights in or to mines or minerals; or
- (b) the product of or the income or profits derived from any mining operations.

(2) A provincial council shall not have power to make an ordinance imposing direct taxation upon the persons, lands, habitations or income of Bantu, and whenever any ordinance of a provincial council imposes direct taxation upon persons, lands, habitations or income, Bantu and their lands, habitations and income shall be exempt from the provisions thereof: Provided that a provincial council may levy a hospital contribution not exceeding twenty-five cents on every Bantu who is liable to pay the general tax under the Bantu Taxation Act, 1969 (Act No. 92 of 1969), and who, on the date such contribution becomes due, is registered within the province for purposes of the payment of the said general tax.

(3) If a provincial council levies a hospital contribution it shall be so levied as to become payable at the same time as the general tax under the said Bantu Taxation Act, 1969, and it shall be collected together with and in the same manner as such general tax.

(4) (a) No province shall levy a tax on companies or on the income, profits or gains of companies or a personal tax or an income tax on the income, profits or gains of persons other than companies.

(b) Any amount collected for the benefit of any provincial revenue fund in terms of any provincial ordinance levying a personal tax or an income tax on the income of persons other than companies, or in terms of any Act of Parliament levying a tax on the taxable income of companies, shall, notwithstanding the provisions of such ordinance or such Act, accrue to the State Revenue Fund.

9. (1) (a) The money which may from time to time be required by any province for the purpose of meeting any capital or non-recurrent expenditure (as defined in section 6 (3) of the Provincial Finance and Audit Act, 1972 (Act No. 18 of 1972)) may be advanced to that province upon loan as required in such amounts as Parliament by annual appropriation may authorize.

Loans to provinces for the purpose of meeting capital or non-recurrent expenditure.

(b) Any advance referred to in paragraph (a) shall be repaid, with interest calculated from the date of issue at a rate determined by the Minister of Finance, by the province to the Treasury in equal half-yearly instalments so calculated that the whole advance and the

FINANCIAL RELATIONS ACT, 1976

Act No. 65, 1976

interest thereon will be repaid within such period of not less than fifteen years and not exceeding forty years, reckoned from the first day of July or the first day of January next succeeding the date of issue, as the Treasury may determine, regard being had to the nature of the work for which such advance is made: Provided that the Treasury may determine a period of less than fifteen years for the repayment of any such advance as is made for the construction of any road.

(2) The money received by a province in terms of subsection (1) (a) shall be paid into the provincial revenue fund.

(3) Money may similarly be advanced to a province upon loan, as provided in subsection (1), for the purpose of providing capital for provincial stores and requisites, and shall be repaid in such manner as the Treasury may determine, subject to the maximum period mentioned in subsection (1) (b).

10. (1) All stores or material which may be supplied to any province by a department of State shall be a liability of that province, and the said province shall pay the cost thereof to that department of State.

Payment for stores or material supplied to a province.

(2) Nothing in this section contained shall be construed as relieving any province from liability to repay to the State President the cost of any such services rendered to that province by the State as the State President may from time to time determine.

(3) Any expenditure by a province under this section shall be included in the normal or recurrent expenditure or in the capital or non-recurrent expenditure of the province, according as such expenditure falls within the provisions of subsection (2) or subsection (3) of section 6 of the Provincial Finance and Audit Act, 1972 (Act No. 18 of 1972).

11. (1) When and so often as it may be deemed desirable to add to the matters entrusted to a province by the Republic of South Africa Constitution Act, 1961 (Act No. 32 of 1961), or by this Act, any additional matter may be entrusted to that province subject to the following provisions:

Entrustment of additional matters to a province.

(a) If it is a matter specified in Schedule 2, the State President may, with the concurrence of the executive committee of the province, determine whether that additional matter shall be so entrusted: Provided that the powers which may be transferred in respect of paragraphs 15 to 18, inclusive, of the said Schedule 2, shall be to the extent and subject to the conditions prescribed by Parliament;

(b) if it is any other matter, an Act of Parliament shall, in accordance with paragraph (m) of subsection (1) of section 84 of the Republic of South Africa Constitution Act, 1961, be necessary.

(2) When any matter has been entrusted to a province by the State President in terms of paragraph (a) of subsection (1), notice thereof shall be given by proclamation in the *Gazette* and, as from a date specified in that proclamation, all powers, authorities and functions relating to that matter shall thereupon be vested in the executive committee of the province as if they were powers, authorities and functions referred to in section 81 of the South Africa Act, 1909, and the provincial council shall be competent to make ordinances in relation to that matter as if it were a matter mentioned in section 84 of the Republic of South Africa Constitution Act, 1961.

(3) The expenditure involved in the administration and carrying out of all matters transferred under this section to any

FINANCIAL RELATIONS ACT, 1976

Act No. 65, 1976

province shall, for the purposes of this Act, be expenditure on matters entrusted to that province.

(4) (a) Whenever, under the provisions of paragraph (a) of subsection (1) and of paragraph 5 of Schedule 2, the State President has transferred to the province the control and management of such places upon any State land as are reserved as places of public resort or of public recreation or of historical or scientific interest, he may, notwithstanding anything to the contrary contained in any law, pay over to the province the proceeds of any sales of such State land, but such proceeds shall be expended by the province solely on the development of the places so reserved.

(b) The expression "control and management of" in relation to such State land shall include the development thereof.

(5) (a) The State President may, notwithstanding anything to the contrary contained in any law, in respect of any township to which the provisions of Law No. 3 of 1870 (Natal) or Act No. 35 of 1904 (Natal) are applicable, on the application of the executive committee of the province of Natal, transfer to the said executive committee all functions and responsibilities in connection with the administration of such township, including any commonage or townlands attached thereto.

(b) Any transfer in terms of paragraph (a) shall be notified in the *Gazette* and as from the date of such notification the proceeds from the sales of any State land in such township, together with the nett proceeds of previous sales, shall be paid over to the administration of the province of Natal in trust for the township fund created in respect of such township: Provided that, for the purposes of those provisions of the Land Bank Act, 1944 (Act No. 13 of 1944), relating to advances for the construction of dipping tanks and for the purposes of the Fencing Act, 1963 (Act No. 31 of 1963), and the Soil Conservation Act, 1969 (Act No. 76 of 1969), the said administration shall be deemed to be the "owner" of such commonage or townlands, notwithstanding that the dominium thereof continues to vest in the State.

12. (1) Subject to the provisions of subsection (2), a provincial council may make ordinances in relation to matters coming within the following classes of subjects, namely, trades and occupations.

Legislative powers of provincial councils in relation to trades and occupations.

(2) The provisions of subsection (1) shall not apply to the trade or occupation of any advocate, attorney, accountant, auditor, architect, insurer, building society, banker or banking institution, board of executors or trust company, conveyancer, dentist, medical practitioner, nurse, notary, veterinary surgeon or person by whom a licence or an authority or an exemption from obtaining a licence under the provisions of the Liquor Act, 1928 (Act No. 30 of 1928), is required, or to any other trade or occupation specified by the Minister of Economic Affairs by notice in the *Gazette*.

13. (1) (a) Notwithstanding anything to the contrary contained in paragraph (e) of subsection (1) of section 84 of the Republic of South Africa Constitution Act, 1961 (Act No. 32 of 1961), or in section 11 of this Act, the State President may at any time, with the concurrence of the executive committee of any province, by proclamation withdraw from the matters entrusted to that province, either wholly or in part, the establishment, maintenance and management of charitable institu-

Transfer of control of charitable institutions and poor relief from provinces to Government of the Republic.

FINANCIAL RELATIONS ACT, 1976

Act No. 65, 1976

tions, the distribution of poor relief and the provision of outpatient services (including dental and district nursing services) as from a date to be fixed by the proclamation: Provided that the matters so withdrawn shall not include the establishment, maintenance and management of hospitals, chronic sick homes, maternity homes, convalescent homes and school hostels for indigent children.

(b) As from the date fixed in terms of paragraph (a)—

(i) there shall cease to be vested in the executive committee of the province concerned any powers, authorities or functions, and the provincial council of that province shall cease to be competent to make ordinances, in relation to the matters so withdrawn;

(ii) all functions, powers, rights, duties and obligations which relate to the matters so withdrawn, and which are entrusted to or conferred or imposed upon the Administrator or the executive committee of that province by or under any ordinance or other law passed before that date, shall be exercised or performed by the Minister of Social Welfare and Pensions or any other Minister of State to whom the State President may assign the administration of those matters or of any of them, and all such functions, powers, rights, duties and obligations so entrusted to or conferred or imposed upon any officer of the provincial administration concerned shall be exercised or performed by any officer in the department of State administered by any Minister to whom the administration of those matters or any of them has been so assigned, who may by any such Minister be designated by notice in the *Gazette*.

(2) The State President may, with the concurrence of the executive committee of the province concerned, by any proclamation issued under subsection (1) or by any later proclamation make such amendments to any ordinance or other law in force in that province and passed before the date fixed by the proclamation issued under subsection (1) as appear to him to be necessary for giving effect to the last-mentioned proclamation.

(3) The State President may at any time, with the concurrence of the executive committee of the province in which any particular institution is situated, by proclamation determine that for the purposes of this section that institution is or is not a charitable institution.

14. For the purposes of section 84 of the Republic of South Africa Constitution Act, 1961 (Act No. 32 of 1961), the expression "higher education" shall, subject to the provisions of section 15 of this Act, include—

- (a) education provided at a university or university college established by or under any law;
- (b) education provided at a college as defined in the Advanced Technical Education Act, 1967 (Act No. 40 of 1967);
- (c) education provided at such schools of art (including ballet and music), agriculture, mining, pharmacy and nautical training as the Minister of National Education may, in consultation with the Minister of Finance, declare to be schools of higher education;
- (d) special education as defined in the Educational Services Act, 1967 (Act No. 41 of 1967);

Definition of higher education.

FINANCIAL RELATIONS ACT, 1976

Act No. 65, 1976

- (e) a course of instruction and training referred to in section 8 (1) of the Educational Services Act, 1967;
- (f) full-time education of a standard which is higher than the standard ordinarily required for an examination for the tenth standard: Provided that a provincial council shall not be prohibited from making ordinances in relation to the temporary secondment on a full-time or part-time basis of any member of the teaching staff who is in the employ of a teaching institution maintained, managed and controlled by the provincial administration; and
- (g) any other education which, with the consent of the Administrator concerned, the Minister of National Education may, in consultation with the Minister of Finance, declare to be higher education.

15. (1) Notwithstanding anything to the contrary in the Republic of South Africa Constitution Act, 1961 (Act No. 32 of 1961), or any other law contained, a provincial council may provide for the payment from the provincial revenue fund of amounts required to defray—

Charge of expenditure for training of staff and other persons on provincial revenue fund.

- (a) expenditure incidental to the maintenance of institutions carried on solely for the training of teachers for the schools controlled by the provincial administration or, with the prior approval of the Minister of National Education, for the provision of accommodation (including disciplinary conditions) for persons who are being trained at a university as teachers for such schools: Provided that the provincial administration shall not be prohibited from making the buildings, equipment, facilities or services of such institution or any part of such buildings, equipment, facilities or services available to a university for the training of such persons;
- (b) expenditure necessary for the award of bursaries to enable persons qualified or being trained as teachers to study or do research at universities or university colleges or other institutions of higher education or other places within or outside the Republic, and of grants for the establishment and maintenance of practising and demonstration schools at such institutions within the Republic;
- (c) expenditure necessary for the award of bursaries to enable persons qualified or being trained as nurses to study at universities or university colleges or other places of higher education;
- (d) expenditure necessary for the award, by the executive committee of the province in question, of bursaries to persons who, as pupils in schools maintained by the provincial administration of such a province, pass the examination at the end of the senior secondary course and obtain such percentage as the said executive committee may from time to time determine of the total number of marks obtainable in that examination, on condition that such persons continue their studies as full-time students at any university or university college or other place of higher education;
- (e) expenditure incurred to enable the Public Service Commission to assist persons to study at universities or university colleges or other places of higher education to qualify or better qualify them to hold posts (other than teaching or nursing posts) in the service of the

FINANCIAL RELATIONS ACT, 1976

Act No. 65, 1976

State (including a provincial administration) or any institution controlled, aided or subsidized by the State as aforesaid;

- (f) expenditure incurred, with the approval of the Treasury and after consultation with the Public Service Commission, to assist persons for the purpose contemplated in paragraph (e);
- (g) expenditure in connection with the training of persons, whether or not in the service of the province, for such supplementary health service professions (as defined in section 1 of the Medical, Dental and Supplementary Health Service Professions Act, 1974 (Act No. 56 of 1974)) and occupations as the Minister of National Education may from time to time, in consultation with the Minister of Finance, designate, whether or not such training is provided in institutions for higher education; and
- (h) expenditure in connection with the establishment and maintenance of institutions, including institutions for higher education, for the training of persons for the supplementary health service professions and occupations referred to in paragraph (g).

(2) Any designation by the Minister of National Education under subsection (1) (g) shall operate for such period as may be determined by the said Minister when making that designation.

16. (1) Notwithstanding anything to the contrary in the Republic of South Africa Constitution Act, 1961 (Act No. 32 of 1961), or in any other law contained, it shall be lawful, so long as education, other than higher education, is a matter in regard to which provincial councils may make ordinances, for—

- (a) the executive committee of a province, out of moneys appropriated by the provincial council concerned for the purpose, to establish, maintain and control in any other province, with the consent of the executive committee of that other province, such schools as it may deem necessary for the education of children of parents ordinarily resident in such first-mentioned province;
- (b) the executive committee of the Transvaal Province, out of moneys appropriated by the Transvaal Provincial Council for the purpose—
 - (i) to make grants-in-aid to any private school established and maintained for European children in Maputo in the territory of Mozambique which in its opinion provides suitable education for children of South African citizens;
 - (ii) to establish, maintain and control at Maputo in the said territory such schools as it may deem necessary for the education of children of South African citizens permanently or temporarily resident in that territory, or of parents ordinarily resident in the Republic;
 - (iii) to establish, maintain and control at Katima Mulilo in the area known as the Eastern Caprivi Zipfel and described in the Eastern Caprivi Zipfel Administration Proclamation, 1939 (Proclamation No. 147 of 1939 of the Republic), such schools as it may deem necessary for the education of children of South African citizens permanently or temporarily resident in that area or of parents ordinarily resident in the Republic.

The executive committee of a province may establish and maintain schools outside its province.

(2) Any school established under subsection (1) (a) or (b) (ii) or (iii) shall for all purposes be deemed to be a school established within the province the executive committee of which established it: Provided that an executive committee may exclude any school so established by it from such provisions of the laws

FINANCIAL RELATIONS ACT, 1976

Act No. 65, 1976

relating to education in force in its province as it may deem fit: Provided further that the executive committee of the province of Transvaal may prescribe conditions of admission to and fees payable for attendance at any school established under subsection (1) (b) (ii) or (iii).

17. (1) Notwithstanding anything to the contrary contained in any other law, a provincial council may provide for the payment from the provincial revenue fund of contributions to any company or other corporate body or body of persons recognized by the Minister of National Education as a body having as its object the advancement of opera, music, the stage or ballet, by means of performances in the province in question or in the province in question and elsewhere.
- (2) A contribution paid by virtue of the provisions of subsection (1) shall for the purposes of the payment to the company or body in question of a subsidy or contribution out of the State Revenue Fund, be deemed not to be part of the funds or income of that company or body.

Contributions for advancement of performing arts.

18. Notwithstanding anything to the contrary in any other law contained, it shall, for so long as provincial councils may make ordinances in connection with roads, outspans, pons and bridges, except bridges connecting two provinces, be lawful for the executive committee of a province, out of funds appropriated by the provincial council concerned for the purpose, to make, define, construct or build and maintain in any other province, with the consent of the executive committee of that other province, such roads or any portion thereof, outspans, pons and bridges as such first-mentioned executive committee may consider desirable in the public interest.

The executive committee of a province may make, define, construct or build and maintain roads, outspans, pons and bridges outside its province.

19. The executive committee of a province may, notwithstanding anything to the contrary in any law contained, out of funds appropriated by the provincial council concerned for the purpose, erect or acquire and maintain buildings for the advancement of opera, music, the stage or ballet, and let such buildings or permit such buildings to be used subject to the terms and conditions which the executive committee may determine.

The executive committee of a province may provide buildings for the advancement of performing arts.

20. A provincial council may provide for the payment from the provincial revenue fund of contributions to any person or body of persons in respect of research carried out by such person or body in relation to matters—

(a) in respect of which a provincial council may legislate;

(b) connected with the performance of the functions of an institution or body contemplated in section 84 (1) (f) of the Republic of South Africa Constitution Act, 1961 (Act No. 32 of 1961).

Provincial councils may provide for contributions and expenditure in connection with research.

21. (1) A provincial council may provide for the payment from the provincial revenue fund—

(a) of contributions to any person or body of persons towards the cost incurred by such person or body within or outside the province in connection with a matter of national interest; and

(b) of any amount required to meet expenditure which is incurred within or outside the province in connection with a matter of national interest.

(2) For the purposes of subsection (1) "matter of national interest" shall mean any act, event, granting of aid, ceremony or demonstration declared by the Minister of the Interior to be a matter of national interest on the grounds that it is—

Provincial councils may provide for contributions and expenditure in connection with matters of national interest.

FINANCIAL RELATIONS ACT, 1976

Act No. 65, 1976

- (i) calculated to promote religion, patriotism, education, physical or human sciences, culture, sport or national security;
- (ii) in celebration or commemoration of any important event in connection with religion, patriotism, statesmanship, history, education, physical or social sciences, culture or sport or in the military sphere;
- (iii) in honour or commemoration of any person or group of persons who or which has achieved distinction in connection with any matter referred to in paragraph (ii); or
- (iv) for the granting of aid or relief of distress after a major disaster.

22. The approval of the Minister of Finance shall be obtained before any payment is made from the provincial revenue fund concerned under any ordinance passed under the provisions of section 21.

Approval of Minister of Finance to be obtained in respect of certain payments.

23. A provincial council may provide for the payment from the provincial revenue fund of an amount, not exceeding fifty rand in any particular case, for the purchase of wreaths for—

Purchase of wreaths for ceremonies and funerals.

- (a) ceremonies taking place within or outside the province in connection with the celebration of Settlers' Day, Kruger Day and the Day of the Covenant, as defined in the Public Holidays Act, 1952 (Act No. 5 of 1952), and in connection with the days known as Van Riebeeck Day, Delville Wood Day and Remembrance Day; and
- (b) funerals, or similar rites in connection with the demise, of dignitaries taking place within or outside the province.

24. A provincial council may provide for the payment from the provincial revenue fund—

A provincial council may provide for contributions and expenditure in connection with the celebration of Republic Day.

- (a) of contributions to any person or body of persons towards the cost of any function which is organized within or outside the province by that person or body of persons in connection with the celebration of Republic Day as defined in the Public Holidays Act, 1952 (Act No. 5 of 1952); and
- (b) of any amount to meet expenditure which is incurred within or outside the province in connection with the said celebration.

25. After the commencement of this Act—

Requirements in respect of pension schemes for members of the provincial council or executive committee of a province.

- (a) no ordinance the effect of which is to increase the liability of a province in respect of any pension scheme for members of the provincial council or of the executive committee of that province shall be introduced without the consent of the State President;
- (b) every draft ordinance relating to any pension scheme referred to in paragraph (a), shall at least two months, or such shorter period as the Secretary for Social Welfare and Pensions, or an officer in his department authorized by him, may in a particular case allow, before its introduction be submitted to that Department.

26. Notwithstanding anything to the contrary contained in any law, the provincial council of the province of Natal may in its discretion pay to the municipality of Pietermaritzburg from moneys appropriated by it, such amount as it may deem fit in order further to compensate Pietermaritzburg for any loss sustained by that city in the form of diminution of prosperity or decreased rateable value by reason of its having ceased to be a seat of government.

Compensation to Pietermaritzburg for diminution of prosperity.

FINANCIAL RELATIONS ACT, 1976

Act No. 65, 1976

27. (1) Notwithstanding anything to the contrary contained in any other law, professors, lecturers and students at a university or university college may, subject to arrangement between the provincial administration and the council of the university concerned or, in the case of a university college, between the provincial administration and the Secretary acting in consultation with the council of that university college, be granted access to any provincial hospital or similar institution for the purpose of and incidental to practical teaching and training in medicine, surgery, midwifery or dentistry.

Teaching and training of students in medicine, surgery, midwifery and dentistry.

(2) Notwithstanding anything to the contrary contained in any law, a provincial administration may by agreement with the council of a university or, in the case of a university college, with the Secretary acting in consultation with the council of that university college, make any member of the staff of a provincial hospital available to such university or university college for the purpose of assisting in the teaching and training of students in medicine, surgery, midwifery or dentistry at such university or university college.

(3) In this section—

- (a) "Secretary" means the Secretary for Bantu Education, and includes any Under-Secretary of the Department of Bantu Education, any Director of Bantu Education and any Deputy Director of Bantu Education; and
- (b) "university college" means a university college as defined in the Extension of University Education Act, 1959 (Act No. 45 of 1959).

28. (1) Notwithstanding anything to the contrary contained in any other law, students at any university may, subject to arrangement between a provincial administration and the council of such university as the Minister of National Education may designate from time to time by notice in the *Gazette*, be granted access to any college, maintained, managed and controlled by such provincial administration, for the purpose of or incidental to the training of such students as teachers in such subjects or courses as the Minister of National Education may from time to time designate by notice in the *Gazette*.

Teaching and training of teachers in collaboration with certain colleges.

(2) Notwithstanding anything to the contrary contained in any other law, a provincial administration may by agreement with the council of such university as the Minister of National Education may designate from time to time by notice in the *Gazette*, make any member of the staff of any educational institution, maintained, managed and controlled by such provincial administration, available to such university for the purpose of assisting in the teaching and training of students at such university as teachers in such subjects or courses as the Minister of National Education may designate from time to time by notice in the *Gazette*.

29. The pensions payable under the provisions of the School Teachers' Pensions Act (Act No. 31 of 1910) of Natal in respect of teachers registered thereunder after 31 May 1910 shall form a charge against the provincial revenue fund of Natal.

Liability of province of Natal for certain pensions.

30. (1) Notwithstanding anything to the contrary contained in the Public Debt Commissioners Act, 1969 (Act No. 2 of 1969), or in any other law, any deposits held by a provincial administration shall, subject to the provisions of section 5 of that Act, be lodged, for investment, with the Public Debt Commissioners who may also receive and invest any other moneys held by, for, or on account of a provincial administration: Provided that where such deposits or moneys are held by or entrusted to a provincial administration under any law, agreement or bequest which requires that they be invested in a particular manner, such

Investment by Public Debt Commissioners of moneys for provincial administrations.

FINANCIAL RELATIONS ACT, 1976

Act No. 65, 1976

deposits or moneys shall be invested by the Public Debt Commissioners in that manner.

(2) For the purposes of this section any reference to the Government of the Republic in the definition of "deposits" in section 1 of the said Public Debt Commissioners Act, 1969, shall be deemed to include a reference to a provincial administration.

31. Any tax, fee, duty or licence money which a provincial council is entitled to receive under the provisions of section 6 shall be recoverable in any court of competent jurisdiction within the Republic, and no such court shall be incompetent to hear and determine any such action solely by reason of the fact that it does not exercise jurisdiction within the province whose provincial council is entitled to receive the tax, fee, duty or licence money sought to be recovered by such action. Provincial tax, etc. may be recovered in any province.

32. (1) Subject to the provisions of subsections (2) and (3), the laws specified in Schedule 3 are hereby repealed to the extent set out in the third column of that Schedule. Repeal of laws and savings.

(2) Anything done in terms of a provision of any law referred to in subsection (1), shall be deemed to have been done in terms of the corresponding provision of this Act.

(3) Any ordinance passed by a provincial council under section 12 (1) of the Liquor Act, 1928 (Act No. 30 of 1928), prior to its amendment by section 32 of the Financial Relations Consolidation and Amendment Act, 1945 (Act No. 38 of 1945), shall remain in force until amended or repealed by Parliament.

(4) The repeal by subsection (1) of a provision of any law shall not affect the validity of any ordinance of a provincial council, or the validity of any act, validated by such provision.

33. This Act shall be called the Financial Relations Act, 1976. Short title.

Act No. 65, 1976 FINANCIAL RELATIONS ACT, 1976

Schedule 1

SOURCES THROUGH WHICH A PROVINCIAL COUNCIL MAY RAISE REVENUE AND WHICH ARE DEEMED TO BE MATTERS IN RESPECT OF WHICH IT HAS THE POWER TO LEGISLATE.

1. Hospital fees and fees received in respect of such education as, under paragraph (c) of subsection (1) of section 84 of the Republic of South Africa Constitution Act, 1961 (Act No. 32 of 1961), read with section 14 of this Act, is within the jurisdiction of a provincial council.
2. Licences required for dogs; licences to take, catch or kill game, fish (other than fish in respect of which the Sea Fisheries Act, 1973 (Act No. 58 of 1973), applies) or other animals (excluding seals and sea birds in respect of which the provisions of the Sea Birds and Seals Protection Act, 1973 (Act No. 46 of 1973), applies; licences to sell game; licences to pick or sell wild flowers.
3. Licences to own or drive any motor vehicle or other vehicle propelled by mechanical power.
4. Wheel tax or tax on vehicles, including motor and other mechanical vehicles.
5. Amusements or entertainment tax.
6. Auction dues.
7. Licensing of trades and occupations in relation to which a provincial council is by section 12 empowered to make ordinances.
8. Licensing of totalisators and the imposition on the licensees of a duty in respect of the takings thereof; and licences, taxes and fees in connection with horse and other racing, betting and wagering, and the dissemination of information as to betting and wagering.
9. A tax on the ownership of immovable property but not on the transfer or sales thereof otherwise than in the form of auction dues under paragraph 6 of this Schedule.
10. Subject to the provisions of subsections (2) and (3) of section 8, a hospital contribution from Bantu.
11. Rates on immovable property situated within an area for which such a scheme as is referred to in paragraph 20 of Schedule 2 is intended, and fees in respect of water supplied under such a scheme.
12. A levy on any local authority for the purpose of meeting expenditure incurred by a province in connection with free library services provided within the area of jurisdiction of that local authority.
13. Receipts of a miscellaneous nature connected with matters entrusted to a province.

Schedule 2

MATTERS THE CONTROL OF WHICH AND THE POWER TO LEGISLATE IN RESPECT OF WHICH MAY BE TRANSFERRED BY THE STATE PRESIDENT TO A PROVINCE IN TERMS OF PARAGRAPH (a) OF SUBSECTION (1) OF SECTION 11.

1. The destruction of vermin and the registration and control of dogs.
2. The preservation of flora and fauna.
3. The provision of grants in respect of agricultural and kindred societies other than societies registered under any law.
4. The establishment, control and management of libraries and library services, museums, art galleries, herbaria, botanical gardens and similar institutions, and zoological gardens, aquariums, oceanariums, snake parks and similar institutions where live animals are kept for exhibition, except any institution which is subject to the provisions of the Cultural Institutions Act, 1969 (Act No. 29 of 1969).
5. The control and management of such places upon State land as the State President may reserve as being places of public resort, of public recreation, or of historical or scientific interest.
6. The establishment, control, management and regulation of cemeteries and crematoria and the regulation of matters relating to the removal or disposal of dead bodies.
7. The distribution of poor relief.
8. The regulation of the hours of opening and closing of shops.
9. The administration of the Labour Colonies Act, 1909 (Cape of Good Hope) in so far as it relates to industrial institutions.
10. The establishment and administration of townships.

FINANCIAL RELATIONS ACT, 1976

Act No. 65, 1976

11. The licensing and control of vehicles and of any other conveyance or means of transport whatsoever using those roads and bridges which under paragraph (h) of subsection (1) of section 84 of the Republic of South Africa Constitution Act, 1961 (Act No. 32 of 1961), are matters as to which a provincial council may make ordinances and of the drivers of any such vehicles or means of conveyance or transport.

12. The restriction, regulation and control of horse racing, the prohibition, restriction, regulation and control of other racing and the restriction, regulation and control of betting and wagering (whether as to circumstances, locality or premises), the prevention, control and regulation of the dissemination of information as to betting within the province and the licensing of any instrument, machine or contrivance, commonly known as a totalisator and the imposition of a duty in respect of the takings thereof, upon the licensees.

13. The licensing, regulation and control of places of amusement and recreation within the province and the imposition of a duty upon the licensee in respect of the takings thereat or of a charge based upon the payments for admission thereto.

14. Town planning, including—

- (a) the sub-division, lay-out or development of areas or groups of areas for building purposes or urban settlement, or deemed by the executive committee of the province concerned to be destined for such purposes or settlement;
- (b) the regulation and limitation of building upon sites;
- (c) the variation, subject to compensation in cases of prejudice, of any existing sub-division or lay-out of land used for building purposes or urban settlement, or deemed by the executive committee of the province concerned to be destined for such purposes or settlement, and the authorization of the consequential amendment of any general plan or any diagram of any sub-division or lay-out so varied and of the consequential alteration or endorsement of any document of title or any entry in a deeds registry;
- (d) the reservation of land for local government or other public purposes in any approved or varied scheme of town planning;
- (e) the prohibition of the transfer of land included in any approved or varied scheme of town planning where any lawful requirement has not been fulfilled;
- (f) the planning or re-planning, subject to the provisions of subparagraph (c), of any area, whether developed as an urban area or not, including the prohibition of the use of any land within such area in conflict with the terms of any town-planning scheme in operation or in the course of preparation in respect of the area within which such land is situated;
- (g) without prejudice to or limitation by the foregoing provisions, the reservation of land for agricultural purposes in any town-planning scheme and the consequential prohibition, restriction or regulation of the sub-division, lay-out or development of any land so reserved for any purpose which is not an agricultural purpose;
- (h) the demolition of, or the imposition of a special charge in respect of, buildings or other structures erected or altered contrary to any provision made by virtue of powers conferred in pursuance of this paragraph;
- (i) the payment of an amount or the transfer of land—
 - (i) to an institution, council or body contemplated in section 84 (1) (f) of the Republic of South Africa Constitution Act, 1961 (Act No. 32 of 1961), by the owner, or his successor in title, of land the value of which has been increased; and
 - (ii) by an institution, council or body referred to in item (i), to the owner, or his successor in title, of land the value of which has been decreased,
 by any town-planning scheme, or the alteration or substitution of any town-planning scheme, irrespective of whether such town-planning scheme is in the course of preparation, is awaiting approval or is in operation.

15. Irrigation schemes.

16. Land Settlement schemes.

17. The establishment of labour colonies.

18. The control of indigenous forests and forest plantations.

19. The expropriation, subject to such terms and conditions as may be prescribed by proclamation, of land for public purposes in a province.

20. The preparation and carrying out of schemes—

- (a) subject to the provisions of the Water Act, 1956 (Act No. 54 of 1956), for the supply of water and the disposal of sewage and industrial effluent in any area; and
 - (b) for the provision of any service ordinarily provided by local authorities,
- and the establishment of corporations with power to prepare or to carry out such schemes and, for the purposes of such schemes, to levy rates on immovable property and to raise fees in respect of water or services supplied by them.

21. Drive-in theatres, but without derogation from the provisions of any other paragraph of this Schedule, and subject to the condition that no provision made by virtue of powers conferred in pursuance of this paragraph shall apply with reference to any drive-in theatre which was being carried on at the commencement of the Financial Relations Amendment Act, 1959 (Act No. 28 of 1959).

22. The provision of insurance cover for the Administrator and members of the executive committee of a province in respect of bodily injury, disablement or death resulting solely and directly from an accident occurring in the course of the performance of their official duties.

23. The establishment of and control over public resorts, places of rest, seaside resorts, holiday centres, holiday camps, caravan parks, tent camps and picnic places.

24. Notwithstanding the provisions of the Water Act, 1956 (Act No. 54 of 1956), the Atmospheric Pollution Prevention Act, 1965 (Act No. 45 of 1965), and the Prevention and Combating of Pollution of the Sea by Oil Act, 1971 (Act No. 67 of 1971), but subject to the provisions of section 85 of the Republic of South Africa Constitution Act, 1961 (Act No. 32 of 1961), environmental pollution.

FINANCIAL RELATIONS ACT, 1976

Act No. 65, 1976

Schedule 3

LAWS REPEALED

No. and year of law	Title	Extent of repeal
Act No. 38 of 1945	Financial Relations Consolidation and Amendment Act, 1945	The whole
Act No. 22 of 1946	Financial Relations Amendment Act, 1946	The whole
Act No. 51 of 1946	Public Health Amendment Act, 1946	Section 15
Act No. 8 of 1949	Financial Relations Amendment Act, 1949	The whole
Act No. 31 of 1950	Financial Relations Amendment Act, 1950	The whole
Act No. 4 of 1952	Financial Relations Amendment Act, 1952	The whole
Act No. 42 of 1953	Financial Relations Amendment Act, 1953	The whole
Act No. 45 of 1954	Financial Relations Amendment Act, 1954	The whole
Act No. 70 of 1956	Financial Relations Amendment Act, 1956	The whole
Act No. 38 of 1957	Financial Relations Amendment Act, 1957	The whole
Act No. 74 of 1957	Financial Relations Further Amendment Act, 1957	The whole
Act No. 25 of 1959	Rating of Railway Property Act, 1959	Section 5, in so far as it amends any provision of Act No. 38 of 1945
Act No. 28 of 1959	Financial Relations Amendment Act, 1959	The whole
Act No. 45 of 1959	Extension of University Education Act, 1959	Section 41, in so far as it amends any provision of Act No. 38 of 1945
Act No. 11 of 1960	Financial Relations Amendment Act, 1960	The whole
Act No. 32 of 1961	Republic of South Africa Constitution Act, 1961	Section 120, in so far as it repeals any provision of Act No. 38 of 1945
Act No. 44 of 1962	Licences Act, 1962	Section 15, in so far as it repeals any provision of Act No. 38 of 1945
Act No. 3 of 1963	Financial Relations Amendment Act, 1963	The whole
Act No. 6 of 1963	Income Tax Amendment Act, 1963	Section 25 (a), (c) and (d)
Act No. 54 of 1963	Financial Relations Further Amendment Act, 1963	Sections 1 and 2
Act No. 19 of 1964	Financial Relations Amendment Act, 1964	The whole
Act No. 3 of 1965	Provincial Affairs Act, 1965	Sections 1 and 2
Act No. 9 of 1965	Financial Relations Amendment Act, 1965	The whole
Act No. 58 of 1965	Financial Relations Further Amendment Act, 1965	The whole
Act No. 41 of 1967	Educational Services Act, 1967	Section 44
Act No. 45 of 1967	Financial Relations Amendment Act, 1967	The whole
Act No. 7 of 1968	Financial Relations Amendment Act, 1968	The whole
Act No. 69 of 1968	Financial Relations Further Amendment Act, 1968	The whole
Act No. 10 of 1969	Financial Relations Amendment Act, 1969	The whole

FINANCIAL RELATIONS ACT, 1976

Act No. 65, 1976

No. and year of law	Title	Extent of repeal
Act No. 97 of 1969	Financial Relations Further Amendment Act, 1969	The whole
Act No. 11 of 1970	Financial Relations Amendment Act, 1970	The whole
Act No. 27 of 1971	Financial Relations Amendment Act, 1971	The whole
Act No. 77 of 1971	Second Financial Relations Amendment Act, 1971	The whole
Act No. 18 of 1972	Provincial Finance and Audit Act, 1972	Sections 30, 31, 32 and 33
Act No. 61 of 1972	Provincial Affairs Act, 1972	Sections 1, 2 and 6
Act No. 89 of 1972	Revenue Laws Amendment Act, 1972	Section 1
Act No. 90 of 1972	Income Tax Act, 1972	Section 31, in so far as it repeals any provision of Act No. 38 of 1945
Act No. 42 of 1973	Provincial Affairs Act, 1973	The whole
Act No. 55 of 1974	Financial Relations Amendment Act, 1974	The whole
Act No. 92 of 1974	National Education Policy Amendment Act, 1974	Sections 7 and 8
Act No. 51 of 1976	Financial Relations Amendment Act, 1976	The whole